

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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ADRIENNE LYDE, et al., :

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Plaintiff(s) : NO. 2:22-cv-03965-MMB

5

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vs :

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CITY OF PHILADELPHIA, :

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Defendant(s) :

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Thursday, August 31, 2023

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Via Zoom Videoconferencing

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14 Oral deposition of TERRELL BAGBY,
15 on the above date, beginning approximately 10:00
16 a.m., before Louis A. Manchello, Certified Court
17 Reporter (New Jersey Lic. No. 30XI00141800) and
18 Notary Public of Pennsylvania, held with all parties
attending via Zoom Video Conferencing.

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 WEIR GREENBLATT PIERCE</p> <p>3 BY: NOAH S. COHEN, ESQUIRE</p> <p>4 1339 Chestnut Street</p> <p>5 Suite 500</p> <p>6 Philadelphia, Pennsylvania 19107</p> <p>7 Counsel for the Plaintiff</p> <p>8 CLARK HILL</p> <p>9 BY: H. DAVID SEIDMAN, ESQUIRE and</p> <p>10 MIKAILA J. JOHN, ESQUIRE</p> <p>11 2001 Market Street</p> <p>12 Suite 2620</p> <p>13 Philadelphia, Pennsylvania 19103</p> <p>14 Counsel for the Defendants</p> <p>15 ALSO PRESENT:</p> <p>16 ADRIENNE LYDE</p> <p>17 JENNIFER ALBANDOZ</p> <p>18 JESSICA BOWERS</p> <p>19 -----</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS (Continued ...)</p> <p>2 DEPOSITION EXHIBITS MARKED</p> <p>3 Bagby-21 Document Bates stamped City 1834 122</p> <p>4 through 1836</p> <p>5 Bagby-22 Document Bates stamped City 1943 132</p> <p>6 through 1848</p> <p>7 Bagby-23 Document Bates stamped City 1849 144</p> <p>8 through 1854</p> <p>9 -----</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 WITNESS EXAMINED BY PAGE</p> <p>3 TERRELL BAGBY</p> <p>4 Mr. Cohen 5</p> <p>5 -----</p> <p>6 EXHIBITS</p> <p>7 DEPOSITION EXHIBITS MARKED</p> <p>8 Bagby-1 Evaluations for Ms. Albandoz 9</p> <p>9 Bagby-2 Letter dated 2/21/20 to Ms. 20</p> <p>10 Albandoz</p> <p>11 Bagby-3 Memorandum dated 2/25/21 from Ms. 26</p> <p>12 Albandoz to Deputy Commissioner</p> <p>13 Bagby</p> <p>14 Bagby-4 Documents Bates stamped 1438 and 30</p> <p>15 1439</p> <p>16 Bagby-5 Interview record for Ms. Lyde 33</p> <p>17 Bagby-6 Evaluation record for Ms. Lyde 34</p> <p>18 Bagby-7 Evaluation of Ms. Lyde dated 43</p> <p>19 7/27/15</p> <p>20 Bagby-8 Evaluation of Ms. Lyde dated 46</p> <p>21 9/7/16</p> <p>22 Bagby-9 Congratulations letter to Ms. 55</p> <p>23 Lyde</p> <p>24 Bagby-10 Declaration of Nancy Giannetta 73</p> <p>Bagby-11 Declaration of Cathy Talmadge 81</p> <p>Bagby-12 2021 budget 83</p> <p>Bagby-13 2022 budget 84</p> <p>Bagby-14 2023 budget 84</p> <p>Bagby-15 Document Bates stamped City 6020 99</p> <p>and 6021</p> <p>Bagby-16 Document Bates stamped Plaintiffs 106</p> <p>1 through 4</p> <p>Bagby-17 Document Bates stamped Plaintiffs 106</p> <p>0022 through 25</p> <p>Bagby-18 Declaration of Michele Farrell 111</p> <p>Bagby-19 Work History Detail for Norman 112</p> <p>Williams</p> <p>Bagby-20 Document Bates stamped Plaintiffs 114</p> <p>0014 through 0021</p> <p>(Exhibit continued ...)</p>	<p style="text-align: right;">Page 5</p> <p>1 TERRELL BAGBY, having been duly sworn</p> <p>2 or affirmed as a witness, was examined and</p> <p>3 testified as follows . . .</p> <p>4 BY MR. COHEN:</p> <p>5 Q. Good morning, Deputy Commissioner</p> <p>6 Bagby.</p> <p>7 A. Good morning.</p> <p>8 Q. So my name is Noah Cohen. I am the</p> <p>9 attorney for the plaintiffs in this matter,</p> <p>10 Jessica Bowers, Adrienne Lyde, and</p> <p>11 Jennifer Albandoz. They have a claim of gender</p> <p>12 discrimination in regards to not being promoted to</p> <p>13 the warden positions in 2020 through the present.</p> <p>14 Do you understand that?</p> <p>15 A. Yes.</p> <p>16 Q. So I'm going to ask you some questions</p> <p>17 today. If there's ever a confusing question or you</p> <p>18 want me to rephrase, just let me know, and I'm happy</p> <p>19 to do that. All right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. So can you tell me a bit about your</p> <p>22 employment background?</p> <p>23 A. Yes, I started at the Philadelphia</p> <p>24 Department of Prisons in November of 1996. I came</p>

<p style="text-align: right;">Page 6</p> <p>1 in as a social worker.</p> <p>2 After some years, I promoted</p> <p>3 to -- after going back to school, I promoted to</p> <p>4 social work supervisor.</p> <p>5 At that time, there was an</p> <p>6 opportunity to work out of class as a program</p> <p>7 administrator. I took that. Did that for about a</p> <p>8 year. And by the time the test was opened for</p> <p>9 program administrator, I tested into the position,</p> <p>10 promoted into the position. I did that for a period</p> <p>11 of time.</p> <p>12 And then, from there, I was</p> <p>13 appointed as the deputy commissioner during this</p> <p>14 current administration.</p> <p>15 Q. And was that in June of 2016 that you</p> <p>16 were appointed?</p> <p>17 A. Yes. I have been here about seven and a</p> <p>18 half years.</p> <p>19 Q. And when you say you took the test to</p> <p>20 get the program administrator position, was that an</p> <p>21 oral examination or a written examination?</p> <p>22 A. It was kind of a combination. You know, you</p> <p>23 wrote and then you presented orally.</p> <p>24 Q. And for that promotion process, was</p>	<p style="text-align: right;">Page 8</p> <p>1 HR professional.</p> <p>2 Q. Sure.</p> <p>3 A. From my understanding is that, based on</p> <p>4 someone's rank, the department can choose between</p> <p>5 the two top candidates.</p> <p>6 Q. Got you. So have you supervised</p> <p>7 Adrienne Lyde?</p> <p>8 A. Yes, I have.</p> <p>9 Q. What is your overall impression of her</p> <p>10 as an employee?</p> <p>11 A. She's sound, intelligent. Never had a</p> <p>12 problem with time and attendance. Proactive.</p> <p>13 Resolves issues, problems. She's always gotten</p> <p>14 superiors on her performance evaluations from me.</p> <p>15 Q. And have you also supervised</p> <p>16 Jennifer Albandoz?</p> <p>17 A. Yes. Since I was deputy commissioner, yes,</p> <p>18 I supervised her in her role as a program</p> <p>19 administrator.</p> <p>20 Q. What is your overall impression of</p> <p>21 Ms. Albandoz's job performance?</p> <p>22 A. My performance evaluations, she's always</p> <p>23 gotten outstanding. Never had a problem with her</p> <p>24 time or attendance. Very proactive. Seeks to solve</p>
<p style="text-align: right;">Page 7</p> <p>1 there a list that you were a part of?</p> <p>2 A. Yes, I believe so. I was number 2 on the</p> <p>3 list.</p> <p>4 Q. And in terms of the people grading the</p> <p>5 examinations, were those people from Philadelphia</p> <p>6 County or from outside of Philadelphia County?</p> <p>7 A. I'm not 100 percent certain, but I think it</p> <p>8 was from Philadelphia. I think it was our H --</p> <p>9 well, central HR.</p> <p>10 Q. When did you get that promotion?</p> <p>11 A. I don't recall the actual date. I want to</p> <p>12 say -- oh, my goodness. I don't recall the actual</p> <p>13 date.</p> <p>14 Q. Fair enough. But before June of 2016</p> <p>15 clearly?</p> <p>16 A. Oh, definitely, yes.</p> <p>17 Q. Yes.</p> <p>18 A. Definitely, yes.</p> <p>19 Q. And was the Rule of Two in place at</p> <p>20 that time?</p> <p>21 A. I believe so. At that time, the Rule of Two</p> <p>22 was in place.</p> <p>23 Q. And what is the Rule of Two?</p> <p>24 A. From my understanding? Because I'm not an</p>	<p style="text-align: right;">Page 9</p> <p>1 problems. She was a great employee.</p> <p>2 Q. I'd like to go over with you some of</p> <p>3 your evaluations for Ms. Albandoz.</p> <p>4 A. Yes.</p> <p>5 MR. COHEN: So I will mark them</p> <p>6 as Plaintiff's Exhibit 1 for this deposition.</p> <p>7 (Whereupon Bagby-1 was marked for</p> <p>8 identification.)</p> <p>9 MR. COHEN: And I will share my</p> <p>10 screen. Let me know if you want me to zoom</p> <p>11 in. I just learned a trick yesterday to zoom</p> <p>12 in. So I can show off that trick.</p> <p>13 MR. SEIDMAN: Noah, off the</p> <p>14 record.</p> <p>15 (Discussion off the record)</p> <p>16 MR. COHEN: So I think we will</p> <p>17 call it Bagby-1.</p> <p>18 BY MR. COHEN:</p> <p>19 Q. So I'm showing you what has been</p> <p>20 labeled as Bagby-1. And I will represent to you</p> <p>21 that this is a seven-page document.</p> <p>22 So I think I will start with the</p> <p>23 oldest one, which is Bates stamped as City 000186.</p> <p>24 Do you see that?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Yes.</p> <p>2 Q. And am I correct that this is your</p> <p>3 signature at the bottom here?</p> <p>4 A. Yes.</p> <p>5 Q. Thank you. So fair to say you did not</p> <p>6 give these ratings, correct?</p> <p>7 A. I'm trying to figure out how Ms. Lyde is the</p> <p>8 rater. May I see the top of this evaluation?</p> <p>9 Q. Sure.</p> <p>10 A. Oh, this was when she was a social work</p> <p>11 supervisor.</p> <p>12 Q. Right. So at this time, back in 2016,</p> <p>13 Ms. Albandoz was a social work supervisor; is that</p> <p>14 right?</p> <p>15 A. Yes. So Ms. Lyde would be the rater as a</p> <p>16 program administrator.</p> <p>17 Q. Because she had already been promoted</p> <p>18 to program administrator?</p> <p>19 A. Yes.</p> <p>20 Q. And then you, as Ms. Lyde's supervisor</p> <p>21 and as the deputy commissioner of Restorative and</p> <p>22 Transition Services -- is that what RTS stands for?</p> <p>23 A. Transitional Services, yes.</p> <p>24 Q. You as the deputy commissioner of --</p>	<p style="text-align: right;">Page 12</p> <p>1 evaluations?</p> <p>2 A. Yes, I believe so.</p> <p>3 Q. And were you part of the</p> <p>4 decision-making team who gave her that promotion?</p> <p>5 A. Yes. I did sit on that panel, yes.</p> <p>6 Q. And what can you tell me about the</p> <p>7 decision to give Ms. Albandoz that promotion from</p> <p>8 social work supervisor to program administrator?</p> <p>9 A. It was a panel, and for full transparency at</p> <p>10 the candidate interviews, I had marked Ms. Albandoz</p> <p>11 as questionable.</p> <p>12 Q. Okay.</p> <p>13 A. Based on the interview.</p> <p>14 Q. And she got the position, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And do you know how she got that</p> <p>17 position? What the process was of actually giving</p> <p>18 her the position?</p> <p>19 A. Everyone on the panel, you know, does their</p> <p>20 candidate profile or interview record, and it's</p> <p>21 submitted to the commissioner based on</p> <p>22 recommendations.</p> <p>23 Q. Right. And do you remember any</p> <p>24 discussion about who to promote for that position?</p>
<p style="text-align: right;">Page 11</p> <p>1 and I will abbreviate it to RTS. You were, I guess,</p> <p>2 in charge of ensuring that these ratings were</p> <p>3 accurate; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know if you adjusted any of</p> <p>6 Ms. Lyde's ratings on this evaluation?</p> <p>7 A. No. I don't recall. I don't think so.</p> <p>8 Q. But fair to say that you found</p> <p>9 Ms. Albandoz's job performance in 2016 as</p> <p>10 outstanding, right?</p> <p>11 A. Yes. Based on the ratings, yes.</p> <p>12 Q. And that is the highest rating that</p> <p>13 exists, right?</p> <p>14 A. Yes.</p> <p>15 Q. So going to the next page, which is</p> <p>16 Bates stamped City 185 and has a date of</p> <p>17 September 6, 2017 here, did you fill out this</p> <p>18 rating?</p> <p>19 A. Yes.</p> <p>20 Q. And at that time, were you</p> <p>21 Ms. Albandoz's supervisor?</p> <p>22 A. Yes, I was.</p> <p>23 Q. Is that because she had been promoted</p> <p>24 to a program administrator between the 2016 and 2017</p>	<p style="text-align: right;">Page 13</p> <p>1 A. I don't recall. I don't think there was too</p> <p>2 much discussion. Whatever was said was pretty much</p> <p>3 recorded on those interview sheets.</p> <p>4 Q. Do you think promoting Ms. Albandoz</p> <p>5 was the right decision?</p> <p>6 A. Yes. Time has shown that it was the right</p> <p>7 decision.</p> <p>8 Q. And at that time, do you know whether</p> <p>9 the Rule of Two was in place?</p> <p>10 A. I believe so. I believe so.</p> <p>11 Q. So I will go to the next evaluation,</p> <p>12 dated September 11th, 2018, and you filled out this</p> <p>13 evaluation, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And then, who would be the person who</p> <p>16 concurred down here; do you know?</p> <p>17 A. That looks like Commissioner Carney's</p> <p>18 signature. She would be the one to sign off on the</p> <p>19 Performance evaluations I submit.</p> <p>20 Q. Got you. So it looks like her</p> <p>21 evaluation in 2018 is stronger than it was in 2017;</p> <p>22 is that fair?</p> <p>23 A. Definitely, yes.</p> <p>24 Q. So had she improved in her role from</p>

<p style="text-align: right;">Page 14</p> <p>1 2017 to 2018?</p> <p>2 A. Yes. 2017, you know, you're coming in.</p> <p>3 You're new. There is a lot that you have to grasp</p> <p>4 and learn. And Ms. Albandoz steadily improved, you</p> <p>5 know.</p> <p>6 Like I said, I didn't even</p> <p>7 realize that she was at that level. I've always</p> <p>8 known her as being outstanding, but I can understand</p> <p>9 there is a learning curve. There is a process. You</p> <p>10 don't come in knowing everything about the position.</p> <p>11 And she was a willing learner to learn everything</p> <p>12 that she needed to learn.</p> <p>13 Q. And I also understand that there is a</p> <p>14 probationary period with any Civil Service</p> <p>15 promotion, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Is that six months?</p> <p>18 A. Total, yes. It's about five months,</p> <p>19 29 days. Like six months, yes.</p> <p>20 Q. Do you remember if Ms. Albandoz was</p> <p>21 ever at risk of not making it through that</p> <p>22 probationary period?</p> <p>23 A. No risk at all.</p> <p>24 Q. So going to the next page, which is</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Yes.</p> <p>2 Q. I understand.</p> <p>3 A. Yes.</p> <p>4 Q. And then did you fill out this top</p> <p>5 part as well, Comments to Employee?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So it's fair to say on any evaluation</p> <p>8 that you are the rater, you would have filled out</p> <p>9 these Comments to Employee?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you have an opportunity to provide</p> <p>12 feedback to Ms. Albandoz as her supervisor?</p> <p>13 A. Yes.</p> <p>14 Q. And how was she at accepting and</p> <p>15 incorporating feedback from you?</p> <p>16 A. She's receptive. Any new supervisor I have,</p> <p>17 I have weekly one-on-ones with them, just to help</p> <p>18 them, you know, navigate that transition to the new</p> <p>19 assignment. She's been very receptive to</p> <p>20 supervision.</p> <p>21 Q. Going to the next page, this is dated</p> <p>22 September 3rd, 2020, and with a Bates stamp of</p> <p>23 City 181, and this is your evaluation of</p> <p>24 Ms. Albandoz in 2020, correct?</p>
<p style="text-align: right;">Page 15</p> <p>1 dated September 29, 2019 --</p> <p>2 MR. SEIDMAN: September 27th.</p> <p>3 MR. COHEN: Sorry. Thank you.</p> <p>4 BY MR. COHEN:</p> <p>5 Q. (Continuing) -- September 27th, 2019,</p> <p>6 with the Bates stamp of City 182, were you the rater</p> <p>7 of this evaluation?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And am I correct that this shows she</p> <p>10 continued on her superior and outstanding</p> <p>11 job performance?</p> <p>12 A. Yes, that looks like outstanding.</p> <p>13 Q. Right. So it looks to me there's one,</p> <p>14 two, three superiors and one, two, three, four,</p> <p>15 five, six, seven outstanding, right? So that would</p> <p>16 be an outstanding?</p> <p>17 A. Yes, six and seven is the overall rating.</p> <p>18 Q. Where is that?</p> <p>19 A. Down the bottom it says, "Overall Rating."</p> <p>20 That's kind of, like, your overall rating.</p> <p>21 Q. Number --</p> <p>22 A. It's below --</p> <p>23 Q. Sorry. Overall Rating. I see that.</p> <p>24 Yes?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Yes.</p> <p>2 Q. And again, she got an outstanding</p> <p>3 rating, correct?</p> <p>4 A. Yes.</p> <p>5 Q. How many program administrators do you</p> <p>6 supervisor at one time?</p> <p>7 A. Two.</p> <p>8 Q. And fair to say it is not -- well, is</p> <p>9 it difficult to find quality program administrators?</p> <p>10 A. I'm going to say yes.</p> <p>11 Q. And is it critical to your -- would</p> <p>12 you call it a department? What would you call RTS?</p> <p>13 A. RTS is the department. RTS social service</p> <p>14 is the division, I guess you could say. They're</p> <p>15 division heads. Program administrators are division</p> <p>16 heads. They don't supervisor the entire RTS. They</p> <p>17 supervise the social service department or division</p> <p>18 of RTS.</p> <p>19 Q. Got you. So fair to say that it's</p> <p>20 critical to RTS to have quality program</p> <p>21 administrators?</p> <p>22 A. Yes.</p> <p>23 Q. So did you come to understand, between</p> <p>24 the 2019 evaluation in September and the 2020</p>

<p style="text-align: right;">Page 18</p> <p>1 evaluation in September, that Ms. Albandoz had 2 applied and had been put on a list for a warden 3 position? 4 A. From my understanding, yes. 5 Q. How did you come to that 6 understanding? 7 A. I mean, there is an announcement that goes 8 out and, you know, people apply for it, and you just 9 hear discussions about it. 10 Q. Right. Did you ever have a 11 conversation with her about -- let's say back in 12 2020 -- about the fact that she was on the warden 13 list? 14 A. I don't think I had a conversation, but I 15 always encourage my direct reports to go for any 16 promotion that they are eligible for. 17 Q. And once you learned that Ms. Albandoz 18 was on the warden promotional list, did you have to 19 do any kind of succession planning? 20 A. No. Not at that time, no. 21 Q. And what would you have to do in order 22 to have replaced Ms. Albandoz? 23 A. I mean, it's a Civil Service process. You 24 would have to put out the announcement for the</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Myself and all the RTS division heads. 2 Q. And who would that be? 3 A. I have two program administrators, a 4 director of volunteer services, a director of 5 chaplainry services, correction entries director, an 6 education director, and a psychological director. 7 MR. COHEN: I will mark this as 8 Bagby-2. 9 (Whereupon Bagby-2 was marked for 10 identification.) 11 BY MR. COHEN: 12 Q. And I'm showing you a letter that 13 Ms. Albandoz received on February 21st, 2020, 14 telling her that she passed the examination for the 15 position of warden and that she is ranked number 4 16 on the list. Do you see that? 17 A. Yes, sir. 18 Q. So you said that you encourage your 19 direct reports to continue seeking to be promoted. 20 And am I correct that the natural progression for 21 program administrator is a warden position? 22 A. Yes. 23 Q. Was there anything specific you 24 remember doing to encourage Ms. Albandoz to apply</p>
<p style="text-align: right;">Page 19</p> <p>1 position, and someone would have to apply for it. 2 Q. So going to the next page of this 3 document -- it is dated September 1st, 2022, and 4 Bates stamped City 180 -- is this the evaluation you 5 did for Ms. Albandoz in 2022? 6 A. Yes, sir. 7 Q. And it looks like in this evaluation, 8 she received all outstanding marks; is that right? 9 A. Yes, sir. 10 Q. So fair to say she has gotten better 11 at her job every year that you supervised her? 12 A. Yes, sir. 13 Q. And I notice at least I don't have a 14 2021 evaluation. Is that due to covid in some way? 15 A. I don't recall. It could be. I don't 16 recall. 17 Q. Fair to say, if there had been a 2021 18 evaluation of Ms. Albandoz done by you, you would 19 have rated her outstanding as well? 20 A. Yes. I think that was the height of covid, 21 and we did a lot of initiatives during the pandemic. 22 So definitely yes. 23 Q. And when you say "we," who are you 24 referring to?</p>	<p style="text-align: right;">Page 21</p> <p>1 for and, you know, try to become a warden? 2 A. Outside of just normal coaching of the 3 staff. Just, you know, policy, procedure, be 4 available, be an active supervisor, be on the floor, 5 be a team player, solve problems. 6 Q. And did she do all the things that you 7 told her she should do in order to get that 8 promotion? 9 A. Yes. Ms. Albandoz, as the performance 10 evaluations show, she's been a great employee. 11 Q. And my understanding is that the 12 warden position, you can be promoted to it from 13 either the program administrator position or the 14 deputy warden position; is that right? 15 A. Yes. 16 Q. And in your experience -- I think you 17 said you started in 1996. So that's, what, 27 years 18 you have been with the PDP? 19 A. Yes, sir. 20 Q. In those 27 years, have you seen 21 successful wardens come from the program 22 administrator side? 23 A. Yes, I have. 24 Q. Who can you think of specifically?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Specifically, Joyce Adams. She was a social 2 work supervisor when I got here. 3 She was actually an acting 4 program administrator, but she took the test to 5 become a warden. She became a warden. 6 Q. Right. So she did that transition 7 from program administrator to warden? 8 A. Yes. 9 Q. Would you say that she was an 10 excellent warden? 11 A. She was sound. I mean, I don't know. I 12 wasn't in a position to supervise her. She was 13 sound. 14 Q. And do you think that program 15 administrators can become excellent wardens? 16 A. Yes. 17 Q. And do you think that a 18 program administrator needs to have 19 correctional-side experience in order to become a 20 warden? 21 A. Not necessarily. I mean, it could help you, 22 but not necessarily. I mean, you're just in a 23 leadership position, and you have to just select a 24 good, sound team around you. That's what you have</p>	<p style="text-align: right;">Page 24</p> <p>1 that's usually your focus. You know, you get an 2 incarcerated person. You provide them services and 3 resources and hope that they become better citizens 4 once they release here. 5 Q. Right. And is the educational 6 requirement to be a supervisor on the social 7 services side higher than it is to be a supervisor 8 on the correctional side? 9 A. Not being an HR professional, but I would 10 say yes. 11 Q. And do you think that the educational 12 requirement for the social services side supervisors 13 is important? 14 A. Definitely, I believe it's important. 15 Q. And why is that? 16 A. Because of the nature of the work that 17 you're doing. You know, you're working in a 18 correctional environment, and your job is to 19 rehabilitate incarcerated persons. You have to know 20 kind of, like, their -- you know, you have to know 21 behavior, human behavior. 22 Q. And specifically, do you think it's 23 important for a social services supervisor to have a 24 bachelor's degree?</p>
<p style="text-align: right;">Page 23</p> <p>1 deputy wardens and the like for. 2 Q. And are there skills that someone from 3 the RTS side may bring to the table that someone 4 from the correctional side perhaps doesn't? 5 A. Probably the clinical piece and how to deal 6 with the population that we currently have. You 7 know, it's a very challenging population. Workforce 8 is a little different, you know, and those clinical 9 skills can come into play. 10 But also, whether we're uniform 11 or nonuniform, we all get trained in the same 12 policies. 13 Q. What about mindset? Is there any kind 14 of different mindset, perhaps, from the RTS side 15 than the correctional side? 16 A. Well, I would think that the RTS side would 17 be more, you know, programmatic and implementing 18 evidence-based programs for the population. 19 Q. How about kind of views toward 20 reentry? Is there any kind of different mindset 21 that you would say regarding reentry from the 22 correctional side versus the social service side? 23 A. I would hope both sides will have the same 24 take on reentry. But I know from the clinical side,</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Yes. 2 Q. And do you think it's important for a 3 program administrator to have a master's degree? 4 A. Yes. And actually, as a social work 5 supervisor, you need a master's degree as well. 6 Q. Is that kind of your same answer that 7 you gave before in terms of why education is 8 helpful, you know, working in a prison? 9 A. Yes. 10 Q. And do you have a master's degree? I 11 guess you do, right? 12 A. Yes. 13 Q. Did you have one at the time you were 14 appointed as deputy commissioner? 15 A. Yes. 16 Q. Do you think that the requirement for 17 a deputy -- and that's a requirement as a deputy 18 commissioner -- correct? -- to have a master's? 19 A. Under the previous, I guess, Civil Service 20 process, yes. But I believe now it's appointment. 21 Q. Got you. And I appreciate you are not 22 a human resources professional. 23 A. Yes. 24 Q. Fair enough. So looking at this</p>

<p style="text-align: right;">Page 26</p> <p>1 letter to Ms. Albandoz, do you know who else was on 2 this February 2020 warden list? 3 A. Not offhand. I didn't find out until we 4 kind of did it. I don't know if this is the first 5 round. 6 No, not offhand. I don't recall 7 everyone. I know it was Ms. Albandoz, Ms. Lyde. 8 Those were my direct reports. 9 Q. Is it important for you, as a 10 supervisor of people up for a promotion, to be aware 11 of, you know, the possibility that your direct 12 reports may leave your department? 13 A. Yes, I would like to know that. Sure. Yes. 14 Q. And back in February of 2020, was 15 Ms. Albandoz qualified to be a warden? 16 A. Yes. I mean, she sat for the test, I 17 believe; so yes. 18 MR. COHEN: I will show you what 19 I will mark as Bagby Exhibit 3, and this has 20 a Bates stamp of City 55. 21 (Whereupon Bagby-3 was marked for 22 identification.) 23 BY MR. COHEN: 24 Q. Deputy Commissioner Bagby, I'm showing</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Oh, definitely, yes. 2 Q. Were you aware that Ms. Albandoz did 3 have experience as a correctional officer? 4 A. Yes, I was aware. I believe I put that on 5 the candidate profile. The interview record, yes. 6 Q. You are saying the interview that you 7 conducted of her in December of 2022? 8 A. Yes. 9 Q. And is that, in your opinion, 10 beneficial? 11 A. Yes. I think it's a plus that she was a 12 rank and file in security. I think that's a plus, 13 yes. 14 Q. So would the reverse be true? In 15 other words, if somebody was on the correctional 16 side predominantly, perhaps a deputy warden, would 17 it be a plus if they had experience on the RTS side? 18 A. I think that would be a plus, yes. 19 Q. And why is that? 20 A. It makes you well rounded. I mean, this is 21 a correctional environment that provides services. 22 So if you could do the custody and also the provider 23 piece, I think that's a plus. 24 Q. Have you ever heard anyone say</p>
<p style="text-align: right;">Page 27</p> <p>1 you a memorandum to yourself from Ms. Albandoz, 2 dated February 25th, 2021, requesting approval to 3 change her schedule. Do you see that? 4 A. Yes. 5 Q. Were there any issues with this that 6 you saw? Was there any problem with her request? 7 A. No, I didn't see an issue with the request. 8 Q. Got you. It wasn't, like, a trick 9 question. Sorry. 10 A. Yes. 11 Q. And was she generally communicative 12 regarding, you know, you guys kind of being on a 13 team? 14 A. Yes. As deputy commissioner, you know, I 15 have to set the vision, and it's the 16 program administrator's job to kind of carry out 17 that vision, so we have to be in communication and 18 work together. 19 Q. And as deputy commissioner, do you 20 also work directly with wardens? 21 A. Yes, I do. 22 Q. So is it helpful to you in your role 23 to have wardens that you have a good working 24 relationship with?</p>	<p style="text-align: right;">Page 29</p> <p>1 anything negative about Ms. Albandoz? 2 A. No. I don't get involved. 3 Q. Got you. What about in terms of the 4 decision of whether or not that she should -- 5 specific to the decision of whether or not she 6 should be a warden? Was there any criticism that 7 you heard of her? 8 A. No. Not that I recall. 9 Q. And if you did hear some criticism 10 like that, do you think that you would have a memory 11 of it? 12 A. I probably would. I don't think they would 13 have that discussion around me. But I probably 14 would. 15 Q. Would you say that, in current PDP 16 leadership, you are most familiar with 17 Ms. Albandoz's job performance? 18 A. In the current leadership? I'll also say 19 that Commissioner Carney is probably familiar 20 because she supervised Ms. Albandoz directly. 21 Q. So it would be you and 22 Commissioner Carney would be the people most 23 familiar with her job performance? 24 A. Yes. We've supervised her directly, yes, at</p>

<p style="text-align: right;">Page 30</p> <p>1 different points.</p> <p>2 Q. And on all of your evaluations of</p> <p>3 Ms. Albandoz, Commissioner Carney signed off, right?</p> <p>4 A. Yes.</p> <p>5 Q. Did she ever push back on any of your</p> <p>6 evaluations?</p> <p>7 A. Not that I recall, no.</p> <p>8 Q. And if she had, I would think there</p> <p>9 would be some kind of record of that, right?</p> <p>10 Whether it be in a revised evaluation or something.</p> <p>11 Is that fair?</p> <p>12 A. Yes, I wouldn't recall.</p> <p>13 Q. Fair enough.</p> <p>14 Now I'd like to ask you about</p> <p>15 your supervision of Ms. Lyde.</p> <p>16 A. Yes.</p> <p>17 Q. You already gave kind of your overall</p> <p>18 impression. So I will mark this as Bagby Exhibit 4.</p> <p>19 (Whereupon Bagby-4 was marked for</p> <p>20 identification.)</p> <p>21 BY MR. COHEN:</p> <p>22 Q. I'm going to share my screen.</p> <p>23 Deputy Commissioner Bagby, I'm showing you Bates</p> <p>24 stamped numbers 1438 and 1439.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. So then, in 2010, this at least is the</p> <p>2 next evaluation I have of yours.</p> <p>3 Do you know if there was an</p> <p>4 evaluation you gave in 2009?</p> <p>5 A. I don't recall.</p> <p>6 Q. Fair enough. So here, looking under</p> <p>7 Comments, just at the end here, you say, "In</p> <p>8 summary, your overall performance this reporting</p> <p>9 period has been outstanding. Please continue the</p> <p>10 excellent work. Good luck with your career</p> <p>11 advancement if you so choose."</p> <p>12 So is that kind of one of the</p> <p>13 things you were saying earlier about trying to</p> <p>14 encourage your direct reports to seek promotion?</p> <p>15 A. Yes, which she eventually did.</p> <p>16 Q. So at this point, she was a social</p> <p>17 work services manager 2. What would have been the</p> <p>18 kind of level up for her?</p> <p>19 A. Social work supervisor.</p> <p>20 Q. At this time, in 2010, it looks like</p> <p>21 you were in that position as social work supervisor,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in terms of her, you know, getting</p>
<p style="text-align: right;">Page 31</p> <p>1 I will start with the 2018</p> <p>2 evaluation of Ms. Lyde. Did you give this</p> <p>3 evaluation?</p> <p>4 A. Yes. This looks like when I was a social</p> <p>5 work supervisor.</p> <p>6 Q. So fair to say you have been</p> <p>7 supervising Ms. Lyde for the past 15 years?</p> <p>8 A. Yes. Off and on, yes.</p> <p>9 Q. Fair to say you are the -- in PDP</p> <p>10 leadership, you are the most familiar with</p> <p>11 Ms. Lyde's job performance?</p> <p>12 A. I would have to say that, yes.</p> <p>13 Q. So do you know if this was when you</p> <p>14 started supervising her in 2008?</p> <p>15 A. It may have been -- I believe I was a social</p> <p>16 work supervisor maybe, like, 2005. I don't recall</p> <p>17 the actual date. But this may be a little later.</p> <p>18 Q. And you rated her as outstanding,</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. And at this point, Ability as</p> <p>22 Supervisor, you put NA. Is that because as a</p> <p>23 social worker 2, she was not a supervisor?</p> <p>24 A. Yes, that's correct.</p>	<p style="text-align: right;">Page 33</p> <p>1 promoted to that position, what would be your role,</p> <p>2 if any?</p> <p>3 A. I don't recall my part in Ms. Lyde's</p> <p>4 promotional process.</p> <p>5 Q. Because?</p> <p>6 A. Because I was the social work supervisor.</p> <p>7 So I would have been her colleague when she</p> <p>8 promoted.</p> <p>9 Q. I guess my question is, would somebody</p> <p>10 have come to you and/or did somebody come to you and</p> <p>11 say, you know, "Hey, we see these evaluations.</p> <p>12 These are outstanding. I just wanted to maybe have</p> <p>13 a quick conversation about her and see what you</p> <p>14 think may be relative to somebody else," or is it</p> <p>15 kind of just based off the paper?</p> <p>16 A. Based off the paper, pretty much.</p> <p>17 Q. Why is that?</p> <p>18 A. I don't know.</p> <p>19 MR. COHEN: So going to the next</p> <p>20 evaluations, I will mark this as Bagby</p> <p>21 Exhibit 5.</p> <p>22 (Whereupon Bagby-5 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. COHEN:</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. I'm showing you a document Bates 2 stamped -- I guess this is not an evaluation -- 3 Bates stamped City 1022, and is this the interview 4 record you filled out for Ms. Lyde? 5 A. No, that's not mine. 6 Q. Do you know if you were involved in 7 that interview process? 8 A. I'm going to say no because I would have 9 been a social work supervisor, and she would have 10 been promoting to social work supervisor, and we 11 were colleagues. 12 Q. So it's always at least two levels up 13 who are interviewed for the promotion? 14 A. One. At least one or two, yes. 15 MR. COHEN: Okay. Understood. 16 So I will mark this as Bagby Exhibit 6. 17 (Whereupon Bagby-6 was marked for 18 identification.) 19 BY MR. COHEN: 20 Q. And this is dated September 5th, 2013, 21 and this is your evaluation of Ms. Lyde once she got 22 the promotion to social work supervisor, correct? 23 A. Yes. 24 Q. So she continued getting an</p>	<p style="text-align: right;">Page 36</p> <p>1 bit more complex, but she has been a sound 2 supervisor. 3 Q. In terms of the two different kind of 4 tracks in the prison -- right? You've got the 5 correctional side, and then you've got the -- is it 6 fair to say the social services side? Is that the 7 correct terminology? RTS side? 8 A. Or maybe nonuniform side. Uniform side, 9 nonuniform side. 10 Q. Okay. Got you. In terms of the 11 uniform versus nonuniform side, on the uniform 12 side -- right? -- you've got deputy wardens, and 13 would the equivalent be the program administrator? 14 Is that, like, a fair comparison position? 15 A. I wouldn't say that. Because, as a 16 program administrator, you report directly to a 17 deputy commissioner, the same as a warden. 18 Previously, as a 19 program administrator, you could take the test for 20 warden or deputy commissioner. 21 Q. Got you. The program administrator 22 position is at least as high in the kind of 23 organizational hierarchy as the deputy warden 24 position; is that fair?</p>
<p style="text-align: right;">Page 35</p> <p>1 outstanding rating, right? 2 A. Yes. 3 Q. It's fair to say not everyone you 4 supervised gets outstanding or superior ratings, 5 right? 6 A. No, not everyone, no. 7 Q. Going to the next page, City 1420, 8 this is your evaluation of Ms. Lyde in 2014, 9 correct? 10 A. Yes. 11 Q. And again, she received an outstanding 12 rating, right? 13 A. Yes. 14 Q. And she also received an outstanding 15 rating in her supervision, right? 16 A. Yes. 17 Q. So fair to say she has been 18 supervising for over a decade now, correct? 19 A. I believe so, yes. 20 Q. And what is your overall impression of 21 her as a supervisor? 22 A. At the social work supervisor level, as you 23 can see, I was always rating her outstanding. As a 24 program administrator, the duties become a little</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yes. 2 Q. The next level down from 3 program administrator, would that be social work 4 supervisor? 5 A. Yes. 6 Q. And would the equivalent on the 7 uniform side be a captain? 8 A. Yes. You could say that, yes. 9 Q. In other words, as a captain on the 10 uniform side, you have supervision responsibilities, 11 right? 12 A. Yes. 13 Q. And as a social work supervisor, you 14 have supervision responsibilities, right? 15 A. Yes. 16 Q. In terms of evaluating those 17 supervision responsibilities as it pertains to the 18 warden position, would you say that either is more 19 valuable than the other? 20 A. I can't put one value over another. 21 Q. Let me make sure my question is as 22 clear as I can make it. 23 In comparing, for instance, the 24 captain position on the uniform side and the social</p>

<p style="text-align: right;">Page 38</p> <p>1 work supervisor position on the nonuniform side, and</p> <p>2 as those supervisor responsibilities of both</p> <p>3 positions relate to being qualified for a warden</p> <p>4 position -- okay? You with me? Did I lose you?</p> <p>5 A. No. I'm still here. I'm still here, sir.</p> <p>6 Q. (Continuing) -- would you say those</p> <p>7 are equivalent values? In other words, that one is</p> <p>8 not more valuable the other? You know, supervising</p> <p>9 on the social services side is not more valuable or</p> <p>10 less valuable than supervising on -- I apologize.</p> <p>11 MR. SEIDMAN: Objection to the</p> <p>12 form.</p> <p>13 MR. COHEN: Yes.</p> <p>14 MR. SEIDMAN: Do you want to</p> <p>15 give it one more shot?</p> <p>16 MR. COHEN: At least one.</p> <p>17 BY MR. COHEN:</p> <p>18 Q. So is the supervision experience that</p> <p>19 a social work supervisor receives less valuable than</p> <p>20 the supervision experience that a captain would</p> <p>21 receive?</p> <p>22 MR. SEIDMAN: Objection.</p> <p>23 A. I don't know. The duties are different.</p> <p>24 Q. And in relation to training for the</p>	<p style="text-align: right;">Page 40</p> <p>1 on the uniform side, would that be lieutenant?</p> <p>2 A. Yes.</p> <p>3 Q. And again, in terms of training for</p> <p>4 the warden position -- okay? -- in that context, is</p> <p>5 time spent as a social work supervisor as valuable</p> <p>6 as time spent supervising as a lieutenant?</p> <p>7 A. I think it's the same. Like you said</p> <p>8 before -- it's different duties. It's kind of</p> <p>9 similar to when you described captain and social</p> <p>10 work supervisor. It's different duties.</p> <p>11 Q. Right, they are different duties. And</p> <p>12 so one is ensuring that, I guess, social workers are</p> <p>13 properly conducting their duties and job</p> <p>14 responsibilities, right?</p> <p>15 A. Right.</p> <p>16 Q. And the other, I guess, is ensuring --</p> <p>17 on the lieutenant level, that would be ensuring that</p> <p>18 guards, correctional officers, are properly carrying</p> <p>19 out their job responsibilities?</p> <p>20 A. Right. Yes. They have that in common, yes.</p> <p>21 Q. So in terms of ensuring that their</p> <p>22 direct reports -- again, in the context of training</p> <p>23 for the warden position, is one more valuable than</p> <p>24 the other?</p>
<p style="text-align: right;">Page 39</p> <p>1 warden position.</p> <p>2 A. I don't know. The duties are different.</p> <p>3 Q. I guess I'm asking if you feel you can</p> <p>4 make a judgment call.</p> <p>5 Do you feel you can make a</p> <p>6 judgment call on that?</p> <p>7 A. No, because it's just two different duties.</p> <p>8 You know, I just can't make the connection.</p> <p>9 Q. Do you understand the question? It</p> <p>10 wasn't a very well-worded question.</p> <p>11 A. I was trying my best.</p> <p>12 Q. I want to give it one more shot, okay?</p> <p>13 At least.</p> <p>14 A. Yes.</p> <p>15 Q. So let's do it within the context of a</p> <p>16 program administrator versus a deputy warden. Okay?</p> <p>17 Is time spent supervising as a</p> <p>18 program administrator as valuable as training for</p> <p>19 the warden position -- okay? -- as training for the</p> <p>20 warden position to time spent supervising as a</p> <p>21 deputy warden?</p> <p>22 A. No, I could say those are about the same. I</p> <p>23 would say those are the same.</p> <p>24 Q. All right. The position under captain</p>	<p style="text-align: right;">Page 41</p> <p>1 A. At that level, I would say that the</p> <p>2 lieutenant probably because you are more involved in</p> <p>3 the day-to-day operation of a facility where, in the</p> <p>4 social work supervisor position, you're pretty much</p> <p>5 concentrating on programs.</p> <p>6 Q. Okay. Would you agree with me that</p> <p>7 supervising employees is a critical part of training</p> <p>8 for the warden position?</p> <p>9 A. Yes. You have to know how to supervise your</p> <p>10 personnel, definitely.</p> <p>11 Q. And, for instance, when Ms. Lyde was a</p> <p>12 social work supervisor, was that helpful training</p> <p>13 for her to potentially become a warden?</p> <p>14 A. Yes. And also, Ms. Lyde had duties -- as a</p> <p>15 supervisor, she worked in the work release program,</p> <p>16 which was pretty, you know, intense for a</p> <p>17 social work supervisor. So that was a good</p> <p>18 experience for her, which I believe enabled her to</p> <p>19 take the program administrator test.</p> <p>20 Q. And her involvement in that work</p> <p>21 release program, was that valuable training in her</p> <p>22 potentially becoming a warden?</p> <p>23 A. I think that would be valuable, yes.</p> <p>24 Q. Why?</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. SEIDMAN: Could we just take 2 a 30-second pause? 3 MR. COHEN: Sure. 4 (Brief pause.) 5 BY MR. COHEN: 6 Q. So, Deputy Commissioner Bagby, I think 7 you were explaining why Ms. Lyde's experience and 8 involvement in the work release program was 9 beneficial to her potentially becoming a warden. 10 A. In my opinion, when the discussion was for 11 Ms. Lyde to go to the work release program, as her 12 colleague and also as a shop steward at the time, I 13 encouraged her to take the assignment because I 14 believed that it would be more -- it would make you 15 more well rounded because you are actually -- in the 16 work release program, you are in the community. You 17 are dealing with providers. You are dealing with a 18 lot of things that a social work supervisor would 19 get more exposure to than if you were inside one of 20 our facilities. And I believe that experience 21 enabled her to move on to the program administrator 22 spot. 23 I think it just has to be a 24 progression from social work supervisor to</p>	<p style="text-align: right;">Page 44</p> <p>1 here? 2237777? 2 A. No. That's actually someone else's. 3 Q. So maybe you didn't give this rating. 4 My mistake. 5 A. I was probably her colleague at that time. 6 Q. Oh, Ms. Lyde? 7 A. Yes. I was her colleague, probably. 8 Q. Got you. Because at this point, she 9 was a human services program administrator? 10 A. Yes. 11 Q. And that was also your role at that 12 time? 13 A. Yes. I believe so, yes. 14 Q. Got you. Okay. 15 A. And that looks like her fifth-month 16 evaluation, which is a probationary period. 17 Q. Got you. Okay. Date probation ends. 18 Okay. 19 So there is generally -- in 20 addition to a yearly evaluation, there would be a 21 probationary evaluation? 22 A. Yes. For promotions. 23 Q. Got you. So at this point, she had 24 been in that role as the program administrator for</p>
<p style="text-align: right;">Page 43</p> <p>1 program administrator that I believe the duties as a 2 program administrator prepares you for the next 3 steps. 4 Q. And that next step would be warden, 5 correct? 6 A. Warden or previously, as I said, because I 7 was in a situation where I was a 8 program administrator, I applied for warden and 9 deputy commissioner. Now it would be warden. 10 Q. Got you. Right. Fair to say that 11 being a program administrator is good training to be 12 a deputy commissioner? 13 A. It happened for me. 14 Q. Yes. Right. I would expect you to 15 agree with that. 16 MR. COHEN: I will mark this as 17 Bagby Exhibit 7. 18 (Whereupon Bagby-7 was marked for 19 identification.) 20 BY MR. COHEN: 21 Q. And this is your evaluation of 22 Ms. Lyde dated July 27, 2015, correct? 23 A. Yes. 24 Q. And this is your payroll number down</p>	<p style="text-align: right;">Page 45</p> <p>1 approximately six months, fair to say? 2 A. Yes. That looks like a probationary period, 3 yes. 4 Q. And I guess you would not have been 5 involved in the decision to promote Ms. Lyde because 6 you were her direct supervisor at the time; is that 7 right? Or were you? I should ask. Were you 8 involved in the decision to promote her? 9 A. Promote her to what position? I'm sorry. 10 Q. No problem. To the 11 program administrator position. 12 A. No. I don't think I was a part of that 13 process. 14 Q. Did you think that she earned that 15 promotion to the program administrator position? 16 A. Yes. I think so, yes. 17 Q. And why is that? 18 A. She's pretty intelligent, and she had a good 19 understanding of that experience of pre-release and 20 also post-release from the work release process of 21 dealing with people who are incarcerated but pretty 22 much close to being in the community. I think that 23 made her a well-rounded candidate. 24 Q. Again, to your recollection, nobody</p>

<p style="text-align: right;">Page 46</p> <p>1 came to you, during the decision to promote her to a 2 program administrator, to kind of -- outside of your 3 evaluations, to say, "Hey, you know, what do you 4 know about -- is there anything I should know about 5 her," or anything like that before the decision was 6 made? 7 A. No, I don't recall anyone coming to me about 8 that. 9 Q. And is that protocol in the prison? 10 That there aren't those kinds of conversations about 11 potential promotions? 12 A. I mean, maybe I'm just -- I'm not privy to 13 those conversations. 14 Q. Okay. 15 A. I haven't been a part of them. 16 Q. Got you. 17 MR. COHEN: Mark this as Bagby 18 Exhibit 8. 19 (Whereupon Bagby-8 was marked for 20 identification.) 21 BY MR. COHEN: 22 Q. So this is your evaluation of Ms. Lyde 23 dated September 7th, 2016, right? 24 A. Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. And at this point you had kind of 2 recently been promoted to the deputy commissioner 3 position? 4 A. Yes. 5 Q. In 2016? 6 A. Yes. 7 Q. Do you remember some kind of learning 8 curve for Ms. Lyde as a program administrator? 9 A. I don't think I supervised her when she 10 first became program administrator. 11 Q. Got you. So fair to say by the time 12 you began supervising her, she was already a 13 superior program administrator? 14 A. I would say, yes. 15 Q. And in terms of her supervision of 16 others, as a program administrator, what made her 17 superior? 18 A. I'm sorry. Could you repeat the question? 19 Something popped up on the phone. I am so sorry. 20 Q. No problem. In terms of her 21 supervision of others, as a program administrator, 22 what made her superior? 23 A. As a program administrator, she was in the 24 options program, which is our substance usage</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. And this was your evaluation of her as 2 a program administrator, correct? 3 A. Yes. 4 Q. So at this point, she had had the job 5 for, like, a bit over a year; is that right? 6 A. It looks like it, yes. Or maybe longer 7 because she was my colleague. So it had to be 8 longer. 9 Q. Well, I think, going back to 7, it 10 looks like her probationary period ended in 11 July of '15 for the position. 12 A. Okay. 13 Q. So I guess that's about six months, 14 right? 15 A. Yes. 16 Q. So at this time, in September of '16, 17 it's about a year and six months, give or take? 18 A. Okay. That's fair to say, yes. 19 Q. So you gave her a rating of superior, 20 right? 21 A. Mm-hmm. 22 Q. Including her supervision of others, 23 right? 24 A. Yes.</p>	<p style="text-align: right;">Page 49</p> <p>1 program. And basically, what she had to do was she 2 had to supervise, you know, various supervisors at 3 different sites, which can be challenging. 4 Q. How did she perform in that task? 5 A. I think her general skills were superior at 6 supervising others. 7 Q. I'm going to the next evaluation, 8 dated September 6, 2017. This was also your 9 evaluation, right? Or you gave the evaluation, I 10 should say? 11 A. Yes. 12 Q. And again, you graded her as superior 13 overall, right? 14 A. Yes. There were no major, you know, changes 15 or anything that would warrant her to be downgraded. 16 Q. And then, again, September of 2019, 17 this is your evaluation of Ms. Lyde in her role as 18 program administrator, correct? 19 A. Yes. 20 Q. And I didn't see one from 2018. Do 21 you know if you were her supervisor in 2018? 22 A. I believe I was. 23 Q. So would you think that there would be 24 an evaluation of her in 2018?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. It should have been.</p> <p>2 Q. In terms of Ms. Lyde's progression, I</p> <p>3 guess by September of 2019, if she had started in</p> <p>4 her role as -- if her probation ended in July of</p> <p>5 2015 for the program administrator position, she</p> <p>6 would have been in the role nearly five years --</p> <p>7 right? -- by September of 2019, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did you encourage her to seek a</p> <p>10 promotion from the program administrator position?</p> <p>11 A. Yes.</p> <p>12 Q. And why is that?</p> <p>13 A. If you see potential in someone -- and, you</p> <p>14 know, I train people to take my position. And</p> <p>15 sometimes you will see employees who you believe can</p> <p>16 kind of, in a selfish way, carry on your tradition</p> <p>17 of doing things -- you kind of give them the extra</p> <p>18 push to promote.</p> <p>19 It's just something I've always</p> <p>20 done, as you can see from those earlier evaluations.</p> <p>21 I've always encouraged those who I believe could be</p> <p>22 good, I guess, employees to the department, I always</p> <p>23 encouraged them to take the next steps.</p> <p>24 Q. And in 2019, for a</p>	<p style="text-align: right;">Page 52</p> <p>1 prisons.</p> <p>2 Q. Was she receptive to your ideas and</p> <p>3 feedback regarding being upper management in the</p> <p>4 prison?</p> <p>5 A. Yes. She was receptive, yes.</p> <p>6 Q. And does she continue to be receptive</p> <p>7 to those ideas?</p> <p>8 A. Yes. Yes, she does.</p> <p>9 Q. Did she inform you that she wanted to</p> <p>10 be a warden at any point?</p> <p>11 A. I think she already told me she didn't want</p> <p>12 to be a warden.</p> <p>13 Q. That she did not want to be a warden?</p> <p>14 A. But that's just talk.</p> <p>15 Q. Right.</p> <p>16 A. As we see.</p> <p>17 Q. Did you come to learn that she, in</p> <p>18 fact, applied to be a warden?</p> <p>19 A. Yes. I think I eventually did see that,</p> <p>20 yes.</p> <p>21 Q. Here is your evaluation with Bates</p> <p>22 stamp 1072, dated September 10th, 2020, of Ms. Lyde.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 51</p> <p>1 program administrator, the next step would be</p> <p>2 warden, right?</p> <p>3 A. In 2019, yes.</p> <p>4 Q. So when you encouraged her to seek</p> <p>5 promotion, you were encouraging her to seek the</p> <p>6 warden position, correct?</p> <p>7 A. I say warden or deputy commissioner.</p> <p>8 Q. Right. So, in other words, you think</p> <p>9 she could do the deputy commissioner position?</p> <p>10 A. I would start with the warden first.</p> <p>11 Q. Okay.</p> <p>12 A. For Ms. Lyde.</p> <p>13 Q. But you think she could do the warden</p> <p>14 position?</p> <p>15 A. Yes.</p> <p>16 Q. And you thought that back in September</p> <p>17 of 2019?</p> <p>18 A. Yes.</p> <p>19 Q. And did you have any conversations</p> <p>20 with her about, kind of, what it would take for her</p> <p>21 to do a good job as a warden?</p> <p>22 A. No. Just general conversation I had with</p> <p>23 any direct report about -- you know, just overall,</p> <p>24 just being an upper management employee at the</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. And again, she got an overall rating</p> <p>2 of superb, correct?</p> <p>3 A. Superior, yes, yes.</p> <p>4 Q. Superior. And you had increased her</p> <p>5 rating of relationship with people to outstanding</p> <p>6 between 2019 and 2020, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you remember why you made that</p> <p>9 change?</p> <p>10 A. I think it was more her interaction with her</p> <p>11 subordinates and the members of our team. You know,</p> <p>12 communicated a little bit better with them on</p> <p>13 initiatives and just making sure people, you know,</p> <p>14 following up.</p> <p>15 Also "relationship with people"</p> <p>16 for us talks about how we deal with providers.</p> <p>17 Because in our RTS, social service, you have to deal</p> <p>18 with, you know, external providers, and I've always</p> <p>19 heard good comments from the providers about her</p> <p>20 interactions with them.</p> <p>21 Q. Got you. And then, I don't see an</p> <p>22 evaluation in 2021 for Ms. Lyde. Do you know if one</p> <p>23 was done?</p> <p>24 A. I don't recall. You know, if it was, it</p>

<p style="text-align: right;">Page 54</p> <p>1 should be there. I don't recall.</p> <p>2 Q. So looking at this document, which is</p> <p>3 Bates stamped City 1074, this is dated</p> <p>4 September 1st, 2022, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And this was your evaluation of</p> <p>7 Ms. Lyde?</p> <p>8 A. Yes.</p> <p>9 Q. And fair to say she continued</p> <p>10 throughout 2021 and 2022 to earn a superior</p> <p>11 job performance?</p> <p>12 A. Yes. And I believe that was during the</p> <p>13 height of the pandemic.</p> <p>14 Q. How did Ms. Lyde perform during the</p> <p>15 pandemic?</p> <p>16 A. As a team, she was great. I mean, we did a</p> <p>17 lot of initiatives during the pandemic, setting up</p> <p>18 virtual classrooms for the population to, you know,</p> <p>19 attend classes. We even introduced wireless</p> <p>20 cell phones to the social worker so that</p> <p>21 incarcerated persons could keep in communication</p> <p>22 with their attorneys. So we had a lot of</p> <p>23 initiatives going on during the pandemic.</p> <p>24 Q. With regard to her role specifically</p>	<p style="text-align: right;">Page 56</p> <p>1 for the position of warden."</p> <p>2 And she received a score of</p> <p>3 101.5, correct?</p> <p>4 A. From what I see, yes, sir.</p> <p>5 Q. Do you know how it's possible someone</p> <p>6 can get over a hundred on the oral exam for warden?</p> <p>7 A. I don't know the ranking system, sir.</p> <p>8 Q. Do you think that her ranking as</p> <p>9 number 1, with the score of 101.5, is relevant to</p> <p>10 whether or not she is qualified for the position?</p> <p>11 A. I would believe so, yes.</p> <p>12 Q. And was she excited about this?</p> <p>13 A. I don't recall.</p> <p>14 Q. So back in February of 2020, was the</p> <p>15 Rule of Two still in place for Civil Service</p> <p>16 positions?</p> <p>17 A. I believe so. Like I said, not being an HR</p> <p>18 professional, but I believe so.</p> <p>19 Q. So fair to say that your two</p> <p>20 program administrators were both on this promotional</p> <p>21 list, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And ranked one and four on the list,</p> <p>24 right?</p>
<p style="text-align: right;">Page 55</p> <p>1 for those initiatives, how would you classify how</p> <p>2 she performed?</p> <p>3 A. She performed well, yes. At that time, she</p> <p>4 had oversight of CFCF, which is our middle intake</p> <p>5 facility, which is the largest. So she had a lot of</p> <p>6 duties over there. She performed well.</p> <p>7 Q. And did her performance reflect well</p> <p>8 on the RTS side?</p> <p>9 A. I don't quite understand the question.</p> <p>10 Q. So did Ms. Lyde's contributions to the</p> <p>11 initiatives during the pandemic reflect or garner</p> <p>12 positive accolades or recognition, is maybe a better</p> <p>13 towards the --</p> <p>14 A. I believe so, yes.</p> <p>15 MR. COHEN: So I will share this</p> <p>16 as Bagby Exhibit 9.</p> <p>17 (Whereupon Bagby-9 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. COHEN:</p> <p>20 Q. This is Bates stamped Plaintiffs 0989.</p> <p>21 Do you see this letter?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So it reflects that Ms. Lyde -- it</p> <p>24 says, "Congratulations, you passed the examination</p>	<p style="text-align: right;">Page 57</p> <p>1 A. Yes.</p> <p>2 Q. Do you feel any pride in that?</p> <p>3 A. Oh, definitely, yes.</p> <p>4 Q. Why is that?</p> <p>5 A. Because those are my direct reports, and I</p> <p>6 believe that, you know, hopefully, I like to think</p> <p>7 that I served as a positive role model and a good</p> <p>8 instructor to help them to move up in this</p> <p>9 department.</p> <p>10 MR. COHEN: Can we take, like, a</p> <p>11 five-minute break?</p> <p>12 (Short recess taken at</p> <p>13 11:22 a.m.)</p> <p>14 (Proceedings resumed at</p> <p>15 11:34 a.m.)</p> <p>16 BY MR. COHEN:</p> <p>17 Q. Hi, Deputy Commissioner Bagby.</p> <p>18 A. Yes. Good afternoon. Good morning.</p> <p>19 Q. So in your experience with the</p> <p>20 Philadelphia Department of Prisons, are people in</p> <p>21 leadership positions ever put in roles in advance of</p> <p>22 them -- I'm not phrasing this correctly.</p> <p>23 I guess what I'm wondering about</p> <p>24 is shadowing and getting people ready for positions</p>

<p style="text-align: right;">Page 58</p> <p>1 within the prison system and how that works. 2 Can you speak to that a bit, 3 please? 4 A. I've heard of it done. As an outside -- 5 observed it done. But I have not, like, been 6 directly involved in that. But there were some 7 opportunities where I believe they call it dual 8 incumbency. 9 Q. And can you think of any examples 10 where dual incumbency was used? 11 A. I can't recall directly. Like I said, I was 12 never directly involved in that. 13 Q. Are you involved in -- other than the 14 warden position -- any promotional appointments? I 15 shouldn't use "promotional appointments." Any 16 promotions? 17 A. I would say program administrator, chief 18 psychologist, and just some other appointments in my 19 division. 20 Q. And I guess you haven't done any 21 promotions to program administrator while Ms. Lyde 22 and Ms. Albandoz have been in those positions, 23 correct? 24 A. That's correct, yes.</p>	<p style="text-align: right;">Page 60</p> <p>1 just been someone working out of class. 2 Q. What is "working out of class"? 3 A. Basically, where, say, there is a supervised 4 position open within your division or unit, you can 5 kind of work out of class to cover that position for 6 a temporary period of time. 7 Q. And did that have to be approved by 8 somebody? 9 A. Yes, it has to be approved. 10 Q. In the case you are referring to 11 with -- I think you said it was a director position; 12 is that right? 13 A. Yes. 14 Q. (Continuing) -- did you approve that? 15 Was that your responsibility to approve it? 16 A. Yes. 17 Q. And does that out-of-class position 18 come with a differential in pay? 19 A. Yes. Yes, it does. 20 Q. Why is that? 21 A. Because you are taking on the duties of 22 that, you know, position and responsibilities. 23 Q. So fair to say, when someone in the 24 Philadelphia Department of Prisons takes on the</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. For the other positions that you are 2 involved in the promotion process, have any 3 promotions been given in the past three years? 4 A. That I can recall, I know we promoted a 5 chief psychologist. 6 Q. Do you know approximately when that 7 was? 8 A. It had to have been -- I think the prior 9 chief psychologist left right before the pandemic. 10 It could have been close to three, three, four years 11 ago. I don't recall the exact dates. 12 Q. What is the name of the current chief 13 psychologist? 14 A. Dr. Lynda Albert. And also Correctional 15 Industries, that would be something I would be 16 involved in. 17 Q. What is Correctional Industries? 18 A. That's Philacor. That's our vocational 19 training program. We have a division head for that 20 as well. 21 Q. Was there promotion recently or in the 22 past few years for that? 23 A. No, not recently. The previous director 24 left right at -- like, during the pandemic, and it's</p>	<p style="text-align: right;">Page 61</p> <p>1 duties of a specific job, they should get paid 2 consistent with that job? 3 A. Yes. I believe so, yes. 4 Q. Is that also part of a collective 5 bargaining agreement? 6 A. I'm not 100 percent certain about that. 7 Q. Fair enough. Is it a fair statement 8 that, on the nonuniform side, there are more women 9 in leadership roles than men? 10 A. I would say so. I believe so. I don't have 11 the actual numbers in front of me, but from me just 12 looking at my division heads, it seems like there 13 are more staff who happen to be female than staff 14 who happen to be male. 15 Q. And is that also true in terms of 16 supervisory staff? 17 A. Primarily, for many social service, I would 18 say yes. 19 Q. So if nonuniform staff were not 20 permitted to switch over to promotional 21 opportunities -- well, is a warden a uniform or 22 nonuniform position? 23 A. That's a uniform position. 24 Q. Specifically, with regards to the</p>

<p style="text-align: right;">Page 62</p> <p>1 warden position, if nonuniform staff were deemed 2 ineligible for the warden position, such as a 3 program administrator -- right? -- would that have a 4 negative impact on female applicants? 5 A. If you are saying the program administrators 6 that we currently have are two females, it would. 7 Q. Right. And generally speaking, if, 8 you know, leadership positions are filled on the 9 nonuniform side, filled more by women, and not just 10 with regards to Ms. Lyde and Ms. Albandoz, but in 11 general, am I correct that there would be a negative 12 impact on women if people from -- yes, if employees 13 on the nonuniform side couldn't be promoted to 14 warden? 15 MR. SEIDMAN: Objection to the 16 form. If you understand ... 17 MR. COHEN: And I'm happy to 18 rephrase because that was very long, and I 19 kind of got lost myself, I will say. So let 20 me rephrase that. 21 BY MR. COHEN: 22 Q. Given that women are more often in 23 leadership roles on the nonuniform side, if wardens 24 cannot come from the nonuniform side, is it fair to</p>	<p style="text-align: right;">Page 64</p> <p>1 RTS side are predominantly women; is that fair to 2 say? 3 A. Social services -- 4 MR. SEIDMAN: Uniform or 5 nonuniform? Just let's get the 6 terminology -- 7 MR. COHEN: I'm saying 8 nonuniform. I'm using them -- I'm kind of 9 interchanging nonuniform and RTS. Right? 10 BY MR. COHEN: 11 Q. Are those synonymous? 12 A. It would be RTS social service. 13 Q. Okay. So I can stick that that, RTS 14 social service. Okay? 15 So the supervisory positions in 16 the RTS social services division -- okay? -- those 17 positions -- that's social work supervisor, right? 18 I guess, really, that's the position we are talking 19 about. I guess I'm asking about social work 20 supervisor. Okay? Fair to say that position is 21 predominantly held by women? 22 A. Most of our social work supervisors are 23 staff who happen to be female, yes. 24 Q. And the candidate pool for</p>
<p style="text-align: right;">Page 63</p> <p>1 say that will negatively impact women's ability to 2 become warden? 3 MR. SEIDMAN: Objection to the 4 form. You can answer if you understand the 5 question. 6 A. I would have to say on the social service 7 side, because that's where a lot of our supervisors 8 who happen to be women are, and those would be the 9 ones who will promote -- would be in the pipeline 10 for program administrator. I don't want to say 11 that's the case for every division, but for social 12 service, that could be the case. 13 Q. And if those program administrators 14 that come from that pipeline can't progress to 15 warden, would that have a negative impact on women 16 on the RTS side? 17 MR. SEIDMAN: Objection to the 18 form. You can answer if you understand the 19 question. 20 A. Maybe if it could be asked in a different 21 way. 22 Q. Sure. Fair enough. 23 So my understanding of what 24 you've said is that the supervisory positions on the</p>	<p style="text-align: right;">Page 65</p> <p>1 program administrator comes from the social work 2 supervisor pool? 3 A. Yes. 4 Q. So if a program administrator gets -- 5 I wanted to say "dinged," but maybe there's a better 6 word. You know, gets -- if there is a negative -- 7 sorry. My brain is failing me. 8 If program administrators are 9 not on equal footing with deputy wardens to get a 10 warden position, does that negatively impact female 11 employees' ability to become warden? 12 MR. SEIDMAN: Objection to the 13 form. If you understand what it means to be 14 on equal footing and everything else loaded 15 in that question ... 16 A. If I'm to answer, I think it could be asked 17 in another form. 18 Q. Yes. Fair enough. Thank you. 19 A. Sorry for the delay. 20 Q. No, no, no. I apologize. It's on me. 21 So let me do it a different way. 22 If, when making the 23 determination whether or not to promote a candidate 24 who is a program administrator to the warden</p>

<p style="text-align: right;">Page 66</p> <p>1 position, the decision-maker takes away credit for 2 not being on the correctional side -- okay? You 3 with me? 4 A. Yes. 5 MR. SEIDMAN: But are you 6 agreeing or are you just with him? 7 MR. COHEN: Well, I haven't 8 asked a question yet. 9 MR. SEIDMAN: I just don't want 10 the record to be construed that he agreed 11 with his statement, as opposed to him being 12 with you. 13 MR. COHEN: It's not a question 14 yet. It's just an "if." 15 MR. SEIDMAN: But there was a 16 statement first, and I didn't know whether or 17 not he was agreeing to the statement or he 18 was saying, "Yes, I'm with you." 19 MR. COHEN: Okay. Fair enough. 20 MR. SEIDMAN: I don't want to 21 tangle the record. 22 MR. COHEN: That's fine. I get 23 it. 24 BY MR. COHEN:</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I would say yes. 2 Q. And the position directly above 3 program administrator is warden, correct? 4 A. At this point in time, yes. 5 Q. And that's been true at least since 6 2020, correct? 7 A. Yes. I believe ever since the Charter 8 changed, yes. 9 Q. Let me ask it this way. Is it fair to 10 give a warden applicant a demerit because they come 11 from the RTS social services side? 12 MR. SEIDMAN: Objection to the 13 form. I don't think he mentioned anything 14 about demerits. 15 MR. COHEN: Yes, he didn't. He 16 didn't. That's true. I'm asking the 17 question. I could use a synonym for demerit, 18 I guess. 19 MR. SEIDMAN: Okay. Demerit 20 sounds like it's some kind of disciplinary 21 process. 22 BY MR. COHEN: 23 Q. Let me use a different word. I'm 24 happy to use a different, maybe less problematic</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. If an applicant for warden gets less 2 points in the evaluation for not being on the 3 correctional side at all, you know, not coming from 4 the correctional side, will that negatively affect 5 females' ability to become wardens? 6 MR. SEIDMAN: Objection to the 7 form. If you understand the question and 8 agree with the assumptions ... 9 A. I would request that it can be asked in a 10 different manner. 11 MR. SEIDMAN: You can always 12 come back to it during a break. 13 MR. COHEN: I'm going to keep 14 trying, if that's okay. 15 BY MR. COHEN: 16 Q. So the social work supervisor position 17 is the applicant pool from which the 18 program administrator position comes, correct? 19 A. Yes. 20 Q. And the social work supervisor 21 position is predominantly women, correct? 22 A. At this point in time, yes. 23 Q. And has that been true for, let's say, 24 the past five years?</p>	<p style="text-align: right;">Page 69</p> <p>1 word. 2 Is it fair for a 3 program administrator to have a disadvantage 4 relative to a deputy warden based simply on the fact 5 that he or she is a program administrator, as 6 opposed to a deputy warden? 7 MR. SEIDMAN: Objection to the 8 form. If you understand ... And you can 9 have it read back to you as well, the 10 question, if you'd like. 11 MR. COHEN: Okay. 12 BY MR. COHEN: 13 Q. Do you want me to rephrase? 14 A. That would be great, yes. 15 Q. Yes. Okay. So let's say there are 16 two applicants for the warden position. Okay? They 17 are equal in all the ways that they can be rated for 18 the position -- okay? -- except that one is a deputy 19 warden and the other is a program administrator. 20 All right? Should the deputy warden get the 21 position over the program administrator? 22 MR. SEIDMAN: Objection to the 23 hypothetical. But go ahead. 24 A. Answer? I'm sorry.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. You can answer.</p> <p>2 MR. SEIDMAN: You can answer if</p> <p>3 you understand.</p> <p>4 A. No, I don't think it should just be based on</p> <p>5 positions. It probably should be more who the</p> <p>6 candidates are.</p> <p>7 Q. And should any value be given to</p> <p>8 whether or not a warden candidate is a deputy warden</p> <p>9 versus a program administrator?</p> <p>10 A. No. I mean, they were both eligible to take</p> <p>11 the test.</p> <p>12 Q. Thank you everyone for sticking with</p> <p>13 me on that.</p> <p>14 Do you remember Warden John</p> <p>15 Delaney retiring?</p> <p>16 A. Yes, I do. Yes.</p> <p>17 Q. And if I represent to you that he</p> <p>18 retired on July 3rd, 2020, does that seem about</p> <p>19 right?</p> <p>20 A. Or maybe July 4th, 2020.</p> <p>21 Q. Okay. Do you have a memory of him</p> <p>22 retiring on the fourth?</p> <p>23 A. Yes. It just struck me as that was</p> <p>24 Independence Day.</p>	<p style="text-align: right;">Page 72</p> <p>1 conversations.</p> <p>2 Q. I think you said earlier you worked</p> <p>3 with wardens as part of your job, right?</p> <p>4 A. Yes.</p> <p>5 Q. Does whether or not the Philadelphia</p> <p>6 Department of Prisons has three versus four wardens</p> <p>7 impact your job?</p> <p>8 A. It's a possibility, yes.</p> <p>9 Q. And it did go from four wardens to</p> <p>10 three when Warden Delaney retired, right?</p> <p>11 A. Yes.</p> <p>12 Q. So did that impact your job?</p> <p>13 A. Not directly, no. Not directly.</p> <p>14 Q. When Warden Delaney retired,</p> <p>15 Warden Talmadge became the warden of RCF, DC, and</p> <p>16 ASD, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Have you ever been involved in any</p> <p>19 conversations about whether or not the</p> <p>20 Detention Center needed its own warden?</p> <p>21 A. Not that I recall. I don't think I was a</p> <p>22 part of those discussions.</p> <p>23 Q. Is the Detention Center its own</p> <p>24 facility?</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. Yes, I guess that would create</p> <p>2 a memory. Okay.</p> <p>3 And did you know in advance of</p> <p>4 his retirement, at all, that he was going retire?</p> <p>5 A. No, I did not.</p> <p>6 Q. Once he retired, did you have any</p> <p>7 conversations with Commissioner Carney or the other</p> <p>8 deputy commissioners regarding who would become the</p> <p>9 warden of CFCF?</p> <p>10 A. No, I did not. I don't recall.</p> <p>11 Q. At the time he retired, there were</p> <p>12 four wardens, right?</p> <p>13 A. I'm not quite sure if it was four.</p> <p>14 Q. So there was Warden Talmadge, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And Warden Giannetta?</p> <p>17 A. Yes.</p> <p>18 Q. And Warden Farrell, correct?</p> <p>19 A. Yes. Okay. That sounds right, yes.</p> <p>20 Q. Do you remember any conversations in</p> <p>21 advance of Warden Delaney's retirement that the</p> <p>22 Philadelphia Department of Prison really only needed</p> <p>23 three wardens instead of four?</p> <p>24 A. I do not recall being a part of those</p>	<p style="text-align: right;">Page 73</p> <p>1 A. At this time, it's under the umbrella of</p> <p>2 RCF.</p> <p>3 Q. Do you know when that happened?</p> <p>4 A. I believe around the time that maybe one of</p> <p>5 the wardens retired.</p> <p>6 Q. Would there be any documentation to</p> <p>7 show that?</p> <p>8 A. I don't have -- I don't recall receiving</p> <p>9 anything or being a part of that process.</p> <p>10 Q. Do you know who made that decision?</p> <p>11 A. I was not directly involved in the process.</p> <p>12 I don't know.</p> <p>13 MR. COHEN: So I will mark this</p> <p>14 as Bagby Exhibit 10.</p> <p>15 (Whereupon Bagby-10 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. COHEN:</p> <p>18 Q. And I'm showing you the sworn</p> <p>19 declaration of Nancy Giannetta. And it's a six-page</p> <p>20 document, starting at Bates stamp Plaintiffs 1015,</p> <p>21 ending in Plaintiffs 1020.</p> <p>22 MR. COHEN: Who was that?</p> <p>23 MR. SEIDMAN: That was Alexa.</p> <p>24 MR. COHEN: Oh, okay. Hi,</p>

<p style="text-align: right;">Page 74</p> <p>1 Alexa.</p> <p>2 BY MR. COHEN:</p> <p>3 Q. Looking at this declaration, I will</p> <p>4 show you the last page with her signature and date,</p> <p>5 her electronic signature.</p> <p>6 Going through this, she says, in</p> <p>7 Paragraph 4, "Each and every time prior to 2020, the</p> <p>8 warden hired was on an active list from the time the</p> <p>9 position made available. Never before had a vacancy</p> <p>10 for warden been left unfilled when there was an</p> <p>11 active promotional list from which to hire from as</p> <p>12 that was PDP policy and practice."</p> <p>13 Do you agree with that</p> <p>14 paragraph?</p> <p>15 A. Yes, I would agree with that.</p> <p>16 Q. In 5 she says, "It is critical to fill</p> <p>17 vacant warden positions because you need good</p> <p>18 leadership and a clear command structure to run a</p> <p>19 facility in a safe and efficient manner for both</p> <p>20 staff and inmates."</p> <p>21 Do you agree with that?</p> <p>22 A. I would agree with that.</p> <p>23 Q. And then 6 she says, "I know from my</p> <p>24 training at the National Institute of Corrections in</p>	<p style="text-align: right;">Page 76</p> <p>1 manner.</p> <p>2 Q. Sure. In Paragraph 9 -- and I should</p> <p>3 have given the preceding paragraph. In Paragraph 9</p> <p>4 Warden Giannetta states, "Warden Cathy Talmadge was</p> <p>5 the warden of Detention Center (DC) at the time.</p> <p>6 She was then given site responsibilities for RCF and</p> <p>7 ASD as well, thereby making her warden of all three</p> <p>8 facilities."</p> <p>9 And then in the following</p> <p>10 paragraph she says, "This was too much</p> <p>11 responsibility for Warden Talmadge due to the</p> <p>12 numerous issues that arise in each facility on a</p> <p>13 daily basis."</p> <p>14 Do you agree with</p> <p>15 Warden Giannetta that Warden Talmadge having</p> <p>16 responsibility as warden for DC, RCF, and ASD was</p> <p>17 too much responsibility for one warden?</p> <p>18 A. I would not directly know that. I would say</p> <p>19 that, traditionally, they have been separate</p> <p>20 facilities having separate leadership.</p> <p>21 Q. And did you see any reason for that to</p> <p>22 change?</p> <p>23 A. Only reason I could see was a reduction in</p> <p>24 population.</p>
<p style="text-align: right;">Page 75</p> <p>1 Aurora, Colorado, that generally accepted standards</p> <p>2 in the correctional industry require that a warden</p> <p>3 lead the institution."</p> <p>4 MR. SEIDMAN: Objection to form.</p> <p>5 If you know what her training actually did in</p> <p>6 helping her ...</p> <p>7 BY MR. COHEN:</p> <p>8 Q. And then at 7 she says, "I also know</p> <p>9 that a warden is necessary to lead a correctional</p> <p>10 facility from my more than three decades of</p> <p>11 experience in the PDP."</p> <p>12 In Paragraph 10 Warden Giannetta</p> <p>13 states, "This was too much responsibility for</p> <p>14 Warden Talmadge due to the numerous issues that</p> <p>15 arise in each facility on a daily basis. This was</p> <p>16 especially true in the summer of 2020 given the</p> <p>17 crisis the PDP was under due to Covid-19. A fourth</p> <p>18 warden should have been hired from the active list</p> <p>19 to fill that position."</p> <p>20 Do you agree with that?</p> <p>21 MR. SEIDMAN: Objection to form.</p> <p>22 You can answer if you understand the</p> <p>23 statement.</p> <p>24 A. Maybe if it could be asked in a different</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Do you know whether or not the PDP</p> <p>2 budget for the years 2020 through 2023 have a line</p> <p>3 item for warden for the Detention Center?</p> <p>4 A. I don't have that direct answer to that, if</p> <p>5 that's the correct answer. I'm sorry.</p> <p>6 Q. No, that's fine. I will represent to</p> <p>7 you -- and I'm happy to show you if you'd like me</p> <p>8 to. But I will represent to you that they do, that</p> <p>9 the Philadelphia Department of Prison budget for the</p> <p>10 years 2020, 2021, 2022, and 2023 have a line item</p> <p>11 for a warden for the Detention Center. Okay?</p> <p>12 A. Okay. Yes.</p> <p>13 Q. Given that, do you see any reason to</p> <p>14 not have a warden specifically assigned to the</p> <p>15 Detention Center?</p> <p>16 MR. SEIDMAN: Objection to form.</p> <p>17 You can answer.</p> <p>18 A. Can it be asked in another manner?</p> <p>19 Q. Sure. Always. Yes.</p> <p>20 So the Detention Center has a</p> <p>21 position for warden paid for by the City for 2020</p> <p>22 through the current year, 2023. Okay? Given that,</p> <p>23 and given that the Detention Center has not closed</p> <p>24 during your tenure with the PDP -- correct?</p>

<p style="text-align: right;">Page 78</p> <p>1 A. That's correct, yes. It was -- I think it 2 was depopulated but not decommissioned. 3 Q. And given the issues at all of the 4 facilities during covid, do you see a reason to take 5 a warden position away from the Detention Center? 6 MR. SEIDMAN: Objection to form. 7 You can answer. 8 A. Not at that time. 9 Q. How about at any other time while the 10 position continues to be funded? 11 A. The only reason I can say is that if the 12 population goes down to a point where you don't need 13 those facilities, I can understand that. 14 Q. Right. Like, the House of Corrections 15 closed, so it did not need a warden, correct? 16 A. Yes. 17 Q. You agree with me that the 18 Detention Center did not close throughout covid, 19 correct? 20 A. There was -- I'm not too sure, but there was 21 a point where it was depopulated, but it was never 22 decommissioned. 23 Q. Currently, do you know approximately 24 how many inmates are in the Detention Center?</p>	<p style="text-align: right;">Page 80</p> <p>1 lost you. 2 MR. SEIDMAN: Are you able the 3 hear the question? 4 THE WITNESS: Yes, I can hear 5 you. 6 MR. SEIDMAN: Noah, do you want 7 to go on like this, or do you want to wait 8 until -- 9 MR. COHEN: Can you see the 10 screen? 11 THE WITNESS: No. I lost my 12 picture. Like I said, I'm on my wireless 13 device because I wanted to be in a more 14 private office, which, unfortunately, doesn't 15 have a computer that works. So I was using 16 my wireless device, and somehow I lost you on 17 the screen. 18 (Discussion off the record) 19 BY MR. COHEN: 20 Q. Let me reask my question. 21 So if Warden Talmadge, acting as 22 warden for RCF, DC, and ASD, expressed concern that 23 she was essentially spread too thin, and there was 24 an approved budget for a fourth warden, is that a</p>
<p style="text-align: right;">Page 79</p> <p>1 A. I had not had the opportunity to look at the 2 census sheet this morning. Each morning we do get 3 the census sheet that lets us know how many 4 individuals are in the facilities. 5 Q. How was the Detention Center used 6 during covid? 7 A. Maybe there is another way to ask that 8 question. I'm not quite clear. 9 Q. Who was housed in the 10 Detention Center, let's say, in 2020 and 2021? 11 Which group of inmates or classification of inmates? 12 A. I guess male inmates, IPs. 13 Q. And what does IP stand for? 14 A. Incarcerated persons. 15 Q. And Warden Talmadge stated that she 16 should not have the responsibility of Riverside 17 Correctional Facility, the Detention Center, and 18 ASD. Do you think that opinion should have been 19 listened to? 20 MR. SEIDMAN: Objection to form. 21 Did we lose you, Deputy 22 Commissioner Bagby? 23 THE WITNESS: Yes, I lost you on 24 my screen. I'm on my wireless device and I</p>	<p style="text-align: right;">Page 81</p> <p>1 reason why there should have been a fourth warden in 2 the PDP? 3 MR. SEIDMAN: Objection to form. 4 You can answer, if you know. 5 A. Maybe it could be asked a different fashion. 6 Q. I guess the question really is, does 7 Warden Talmadge's opinion of whether there should be 8 four versus three wardens carry any weight, in your 9 opinion? 10 MR. SEIDMAN: Objection to form. 11 A. Maybe it could be asked in another fashion. 12 MR. COHEN: Sure. That's fine. 13 So I will mark this as Plaintiff's Exhibit 14 11. 15 (Whereupon Bagby-11 was marked for 16 identification.) 17 BY MR. COHEN: 18 Q. And this is the declaration of 19 Cathy Talmadge, and it is a four-page document, 20 signed by Ms. Talmadge, August 23rd, 2023. Do you 21 see that? 22 A. Yes. 23 Q. And so going to the beginning, she 24 says, in Paragraph 3, "At the time I retired I was</p>

<p style="text-align: right;">Page 82</p> <p>1 running three separate facilities as warden: 2 Riverside Correctional Facility, the 3 Detention Center, and the Alternative and Special 4 Detention --" I guess that should be unit, right? 5 A. Yes. ASD. 6 Q. Okay. Do you agree with that 7 paragraph? 8 A. As far as what she is saying that she was 9 running three separate facilities? 10 Q. Yes. 11 A. As warden? I believe that is true, yes. 12 Q. And then, next she says, "I expressed 13 my belief that the PDP should hire additional 14 wardens." 15 Did she ever express that belief 16 to you? 17 A. I don't think I was part of those 18 discussions. I don't recall. 19 Q. And then she says, "Frankly, it was 20 ridiculous and a mess for me to be the warden of 21 three separate facilities, especially since the 2021 22 PDP budget accounted for four separate warden 23 positions." 24 So what is your opinion about</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes. 2 Q. And CFCF? 3 A. Yes. 4 MR. COHEN: And then going to 5 the '22 operating budget, which I will mark 6 as Bagby-13. 7 (Whereupon Bagby-13 was marked for 8 identification.) 9 BY MR. COHEN: 10 Q. There is a budget position for the RCF 11 warden, correct? 12 A. Yes, I see. 13 Q. And Detention Center warden? 14 A. Yes. 15 Q. And then also PICC warden? 16 A. Yes. 17 Q. And also a warden for Curran-Fromhold 18 Correctional Facility? 19 A. Yes. 20 Q. And then marking Bagby Exhibit 14, 21 this is the 2023 prison budget, correct? 22 A. From what I see, yes. 23 (Whereupon Bagby-14 was marked for 24 identification.)</p>
<p style="text-align: right;">Page 83</p> <p>1 that statement? 2 MR. SEIDMAN: Objection to form. 3 A. I myself have not looked at that in the 4 budget. 5 Can you still hear me? I'm 6 sorry. 7 Q. Yes, I can hear you. I'm just opening 8 up the 2021 and '22 and '23 budgets, just to show 9 you. 10 MR. COHEN: And I will mark this 11 as Plaintiff's Exhibit 12. 12 (Whereupon Bagby-12 was marked for 13 identification.) 14 BY MR. COHEN: 15 Q. And this, do you agree, is the 2021 16 operating budget for the Philadelphia prison system? 17 A. Yes. 18 Q. Looking at the budget, do you agree 19 that RCF has a budget position for the warden? 20 A. From what I see, yes. 21 Q. And same is true for the 22 Detention Center? 23 A. From what's presented here, yes. 24 Q. On the next page, also for PICC?</p>	<p style="text-align: right;">Page 85</p> <p>1 BY MR. COHEN: 2 Q. And this budget also has a funded 3 position for the warden of RCF, right? 4 A. Yes. 5 Q. And also for the Detention Center? 6 A. Yes. 7 Q. And also for PICC? 8 A. Yes. 9 Q. And also for Curran-Fromhold? 10 A. Yes. 11 Q. So given the 2021, 2022, and 2023 12 budget showing that there is a warden position paid 13 for for the Detention Center, do you think there 14 should be a warden for the Detention Center? 15 MR. SEIDMAN: Objection to form. 16 I think it's budgeted for, not paid for. 17 MR. COHEN: Okay. Fair enough. 18 I will rephrase. 19 BY MR. COHEN: 20 Q. Given that the 2021 through 2023 21 principal budget includes positions for the warden 22 of the Detention Center, do you think the 23 Detention Center should have its own warden? 24 A. I mean, it's hard for me to answer that</p>

<p style="text-align: right;">Page 86</p> <p>1 question because I'm not involved in the discussions</p> <p>2 on why those decisions were made.</p> <p>3 Q. Right. How come you aren't included</p> <p>4 in those discussions?</p> <p>5 A. I really can't give you a good answer on</p> <p>6 that.</p> <p>7 Q. In your position as deputy</p> <p>8 commissioner, shouldn't you be included in a</p> <p>9 discussion of whether or not the Detention Center</p> <p>10 should have its own warden?</p> <p>11 A. I think we all should be a part of that</p> <p>12 discussion, yes.</p> <p>13 Q. And when you say, "we all," are you</p> <p>14 referring to all three deputy commissioners?</p> <p>15 A. Yes.</p> <p>16 Q. And if you had been included in that</p> <p>17 discussion, given that the position is budgeted,</p> <p>18 what would your opinion have been?</p> <p>19 MR. SEIDMAN: Objection to form.</p> <p>20 You can answer if you understand.</p> <p>21 A. If it was budgeted, you know, I would want</p> <p>22 to know the justifications. But if it wasn't</p> <p>23 needed, I would want to know the justifications as</p> <p>24 well.</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I don't understand how you're using the term</p> <p>2 "hedge."</p> <p>3 Q. Fair enough. I guess the way I was</p> <p>4 thinking of it is, like, if it doesn't work out,</p> <p>5 you've got an out, right? If the person isn't doing</p> <p>6 a good job as warden, or in any position with a</p> <p>7 probationary period, that probationary period gives</p> <p>8 you that, kind of, off-ramp, shall we say, where</p> <p>9 they don't stay in the position, right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. So given that, did Adrienne Lyde</p> <p>12 deserve a chance as warden in 2020 and 2021?</p> <p>13 MR. SEIDMAN: Objection to form.</p> <p>14 You can answer.</p> <p>15 A. Can it be asked in another -- rephrased in</p> <p>16 another way?</p> <p>17 Q. Sure. I will come back to it. That's</p> <p>18 fine.</p> <p>19 So going back to</p> <p>20 Warden Giannetta's declaration, which I believe is</p> <p>21 marked as P-10, I will --</p> <p>22 MR. SEIDMAN: Bagby-10, right?</p> <p>23 MR. COHEN: Bagby-10.</p> <p>24 BY MR. COHEN:</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. And in 2020, once covid happened, and</p> <p>2 2021, is it fair to say that the prison needed as</p> <p>3 much leadership as possible?</p> <p>4 A. Good leadership, yes.</p> <p>5 MR. SEIDMAN: Objection. That's</p> <p>6 fine. That's fine.</p> <p>7 BY MR. COHEN:</p> <p>8 Q. Good leadership, yes.</p> <p>9 And would Adrienne Lyde have</p> <p>10 been a good leader for the warden position in 2020</p> <p>11 and 2021?</p> <p>12 A. It's hard to answer that because it's kind</p> <p>13 of like trying to predict. What I will say is that,</p> <p>14 in the process, there is a probationary period, and</p> <p>15 that is your opportunity to show if you are capable</p> <p>16 of doing the job or not. That's what the -- from my</p> <p>17 understanding, that's what that probation period is</p> <p>18 for.</p> <p>19 So anyone who is newly promoted</p> <p>20 goes through that probationary period. And that's</p> <p>21 kind of like when you would make that evaluation</p> <p>22 whether they would be permanent or not.</p> <p>23 Q. So given that there is that hedge --</p> <p>24 is it fair to call the probationary period a hedge?</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. She states, starting in Paragraph 11,</p> <p>2 "In August, 2021, I retired due to the lack of</p> <p>3 support I experienced from Commissioner Carney after</p> <p>4 several tragic events in CFCF that included deaths."</p> <p>5 Does that -- and I'm not asking</p> <p>6 about the reason she retired. But just in terms of</p> <p>7 the timing, does August, 2021, comport with your</p> <p>8 understanding of when she retired?</p> <p>9 A. I believe so.</p> <p>10 Q. And then in the next paragraph, she</p> <p>11 says, "I was not permitted to provide any input into</p> <p>12 who would replace me as the warden of CFCF."</p> <p>13 And then in the following</p> <p>14 paragraph, she says, "A warden should have been</p> <p>15 hired from the active list immediately to replace me</p> <p>16 as the warden of CFCF due to the nature of the</p> <p>17 facility and it is the main intake facility and,</p> <p>18 even more so than other facilities, requires the</p> <p>19 leadership that a warden provides."</p> <p>20 Do you agree with Paragraph 13</p> <p>21 of Warden Giannetta's declaration?</p> <p>22 A. I will say CFCF is your flagship facility.</p> <p>23 Q. Right. And do you agree with her</p> <p>24 statement that it requires a warden?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. Oh, definitely CFCF requires a warden, yes.</p> <p>2 Q. Right. And Steven Angelucci took over</p> <p>3 the duties and responsibilities of warden for CFCF,</p> <p>4 correct?</p> <p>5 A. Yes. From my understanding, yes.</p> <p>6 Q. And do you know when he took over</p> <p>7 those duties and responsibilities?</p> <p>8 A. I don't recall the actual date.</p> <p>9 Q. How about kind of in relation to</p> <p>10 Warden Giannetta's retirement? Do you know if it</p> <p>11 was within a certain period of time?</p> <p>12 A. Yes, it was a period of time where I</p> <p>13 think -- well, most of the wardens had probably</p> <p>14 retired and the facilities were being ran by</p> <p>15 deputy wardens.</p> <p>16 Q. Right. So my question is, in regards</p> <p>17 to CF, Steven Angelucci was the deputy warden</p> <p>18 running that facility, right?</p> <p>19 A. Yes.</p> <p>20 Q. In terms of when he began running that</p> <p>21 facility, is there any time frame that you can put</p> <p>22 on that?</p> <p>23 A. No. I don't recall. It was just so many</p> <p>24 things happening during the pandemic.</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Yes. I believe so, yes.</p> <p>2 Q. And if you had been given a seat at</p> <p>3 the table, would that have been your opinion?</p> <p>4 A. Yes. Vacancies, you go to the active list,</p> <p>5 and you start the process, yes.</p> <p>6 Q. And at that time, in August of 2021,</p> <p>7 the Rule of Two was still in place, correct?</p> <p>8 A. Yes.</p> <p>9 May I shut my door real quick,</p> <p>10 please? I'm sorry.</p> <p>11 Q. Yes.</p> <p>12 A. Oh, you thank, Captain. Someone got it for</p> <p>13 me. Thank you.</p> <p>14 Q. So just to ask that again. In August</p> <p>15 of 2021, the Rule of Two was still in place,</p> <p>16 correct?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. And what that would mean is that the</p> <p>19 top two members of the promotional list would be</p> <p>20 interviewed and one person would be chosen for the</p> <p>21 position, correct?</p> <p>22 MR. SEIDMAN: Objection to form.</p> <p>23 You can answer if you understand the</p> <p>24 question.</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Were you involved in any conversations</p> <p>2 about deputy warden at the time Angelucci taking</p> <p>3 over the duties and responsibilities of the warden</p> <p>4 position?</p> <p>5 A. I don't recall being a part of the planning.</p> <p>6 Maybe the announcement. But not -- I don't recall</p> <p>7 being a part of the planning process.</p> <p>8 Q. Should you have been a part of the</p> <p>9 planning process?</p> <p>10 A. At the position of deputy commissioner, I</p> <p>11 think we -- yes, we all should have had a seat at</p> <p>12 the table.</p> <p>13 Q. And at the time of Warden Giannetta's</p> <p>14 retirement, there was an active warden list, right?</p> <p>15 A. I believe so, yes.</p> <p>16 Q. And both Ms. Lyde and Ms. Albandoz</p> <p>17 were on that list, right?</p> <p>18 A. I believe so, yes.</p> <p>19 Q. And Ms. Bowers was as well, correct?</p> <p>20 Jessica Bowers?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. When there is an active list for a</p> <p>23 promotion, under prison policy, should the members</p> <p>24 of that list be interviewed for the position?</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Can you --</p> <p>2 Q. Let me ask you this. I will just ask</p> <p>3 you. How would the Rule of Two work in regards to</p> <p>4 the warden list for promotion back in August of</p> <p>5 2021?</p> <p>6 A. From my understanding, not being an HR</p> <p>7 professional, you interview, and then, based on the</p> <p>8 interview, you make a selection.</p> <p>9 Q. And fair to say that the people</p> <p>10 interviewed would be the top two people on the list?</p> <p>11 A. Unless one of them declined. Then you kind</p> <p>12 of move down the list. That has happened. But most</p> <p>13 times it's based on, I guess, how many vacancies you</p> <p>14 have and how many people on the list, but definitely</p> <p>15 starting with the number 1 and number 2.</p> <p>16 Q. And do you know approximately when it</p> <p>17 shifted from Rule of Two to Rule of List?</p> <p>18 A. I don't know. I know that seemed like it</p> <p>19 was a central HR thing. And it was in the paper.</p> <p>20 It was an announcement. I'm not sure of the date.</p> <p>21 Q. Was there any notice given to -- did</p> <p>22 you know ahead of time that that was going to</p> <p>23 happen?</p> <p>24 A. I've heard of it, but I can't recall if</p>

<p style="text-align: right;">Page 94</p> <p>1 there was like, you know, official documentation 2 that was provided. I don't recall that. 3 Q. So at the time, Deputy Warden 4 Angelucci took over site responsibilities for CFCF, 5 correct? 6 A. At what time? I'm sorry. 7 Q. Sorry. Good question. When 8 Warden Giannetta retired. 9 A. I believe so. I do not know the actual 10 exact date, but that would be a progression. 11 Q. Was there an announcement that he was 12 taking over? 13 A. I'm not 100 percent sure, but I think there 14 was something that went out letting everyone know 15 that the deputy wardens would have site 16 responsibility. 17 Q. And were they paid out of class? 18 A. I -- 19 MR. SEIDMAN: Just don't guess 20 if you don't know. It sounded like your 21 previous question you weren't sure either. 22 MR. COHEN: Please don't direct 23 the witness. 24 MR. SEIDMAN: I don't want him</p>	<p style="text-align: right;">Page 96</p> <p>1 Warden Norman Williams? 2 A. In my assessment, I believe so. 3 Q. Do you know whether those three 4 deputy wardens were paid out of class? 5 A. Not directly. I don't have -- I don't know 6 what they were paid, no. 7 Q. Warden Talmadge -- do you know 8 approximately when Warden Talmadge retired? 9 A. Not exactly, no. 10 Q. So going to her declaration, which is 11 a marked exhibit in this matter, looking at the 12 second paragraph -- 13 MR. SEIDMAN: Could you share 14 the screen? 15 MR. COHEN: Oh, sorry. Yes. 16 BY MR. COHEN: 17 Q. Ms. Talmadge states in her sworn 18 statement that she retired in September of 2021 as 19 warden. Do you see that? 20 A. Yes. 21 Q. Does that comport with your 22 recollection of approximately when she retired? 23 A. I'm pretty sure she would put the accurate 24 date on there, yes.</p>
<p style="text-align: right;">Page 95</p> <p>1 to guess. It's not going to help anyone. 2 MR. COHEN: Okay. I assume he 3 has been deposed many times and he 4 understands. But please -- yes. 5 BY MR. COHEN: 6 Q. Deputy Commissioner Bagby, can I 7 repeat the question, please? 8 A. Yes. 9 Q. You understand prison policy, correct? 10 A. Yes. 11 Q. So given that Deputy Warden Angelucci 12 was doing the job of warden for -- well, let me ask 13 you. 14 Did Deputy Warden Angelucci, 15 while he was a deputy warden, do the warden job of 16 CFCF? 17 A. Yes, he did. Yes. 18 Q. Given that, should he have been paid 19 out of class? 20 A. In my assessment, I believe so. 21 Q. Is that true for Deputy Warden 22 Lacombe? 23 A. In my assessment, I believe so. 24 Q. And is that also true for Deputy</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Yes. And Deputy Warden Lacombe took 2 over site responsibilities for RCF, DC, and ASD, 3 correct? 4 A. Yes. That was the progression, yes. 5 Q. And at that time, there was an active 6 list for the warden position, correct? 7 A. I believe so, yes. 8 Q. And when there is an opening such as 9 there was when Warden Talmadge retired, the proper 10 procedure is to go to the list to interview, 11 correct? 12 A. Yes, that's historically how it was done. 13 Q. And that's how it should be done, 14 correct? 15 MR. SEIDMAN: Objection to form. 16 BY MR. COHEN: 17 Q. Do you think that's how it should be 18 done? 19 A. Yes. My opinion, yes. 20 Q. And why is that? 21 A. I mean, that's just how it is. If there's a 22 vacancy and you have a list of candidates, then 23 that's where you draw your applicants from. 24 Q. And is it sometimes the case that a</p>

<p style="text-align: right;">Page 98</p> <p>1 list of candidates is made up entirely -- let me say 2 it this way. Strike that. 3 Have you ever seen a list made 4 up entirely of unqualified applicants? 5 A. No. If they were unqualified, they probably 6 wouldn't make the list. 7 Q. So the fact that a candidate is on the 8 list, does that mean they are, by definition, 9 qualified? 10 MR. SEIDMAN: Objection to form. 11 You can answer. 12 A. They were qualified to take the test to get 13 on the list, yes. 14 Q. In September of 2021, I will represent 15 to you that the list for warden was made up of 16 Adrienne Lyde in the number 1 position, 17 Jessica Bowers in the number 2 position, and 18 Jennifer Albandoz in the number 3 position. Okay? 19 A. Yes. 20 Q. Given that representation, who should 21 have been interviewed for the open warden positions? 22 MR. SEIDMAN: Objection to form. 23 You can answer. 24 A. Can you restate or rephrase your question?</p>	<p style="text-align: right;">Page 100</p> <p>1 actual date. 2 Q. So I will represent to you that by 3 August of 2021, she had retired. Okay? 4 A. Okay. Yes. 5 Q. Given that, when Wardens Talmadge and 6 Giannetta retired in August and September of 2021, 7 what should have happened in regards to filling 8 those positions? 9 A. From my assessment, if there was two 10 vacancies, I would have went to the list to look for 11 candidates. 12 Q. And then what would happen once you go 13 to the list? 14 A. You would probably look at -- if it was two 15 vacancies, you may look at -- what? -- the top 16 three. 17 Q. And would those women be interviewed? 18 A. Not being an HR professional, I believe so, 19 yes. 20 Q. And at that time, was Adrienne Lyde 21 ready to be a warden? 22 A. In my assessment, I would say yes. As I 23 stated earlier, you always had a probationary 24 period.</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Yes. Do you know who Rodica Craescu 2 is? 3 A. Yes. 4 Q. Do you know whether she was on the 5 February, 2020 promotional list for warden? 6 A. No, I'm not aware of that. 7 MR. COHEN: So I can show you 8 that document. I will mark this Bagby-15. 9 (Whereupon Bagby-15 was marked for 10 identification.) 11 BY MR. COHEN: 12 Q. Bagby-15 is a two-page document Bates 13 stamped City 6020 to 21. Do you see that? 14 A. It was on there. But I did see it. 15 Q. Yes. The second page is just this E, 16 really. 17 A. Okay. Yes. 18 Q. But the first page is the warden list, 19 stating that it expires February 20th, 2022. Do you 20 see that? 21 A. Yes. 22 Q. Do you know whether or not 23 Rodica Craescu had resigned by August of 2021? 24 A. I know she resigned. I just don't know the</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Same question in regards to 2 Jessica Bowers. 3 A. I've not supervised Major Bowers directly, 4 but everything that I know of her or have heard of 5 her and what I observed as my time -- oh, actually, 6 you know what? When I was deputy commissioner, she 7 was an EAP. 8 So I did supervise her for a 9 little bit of time. I think she would have been a 10 good candidate as well. 11 Q. So she was ready to be a warden at 12 that time? 13 A. I believe so. And like I say, you also 14 always had that probationary period to see if that 15 person is cut out for the position, yes. 16 Q. Same question in regards to 17 Ms. Albandoz. 18 A. Yes, same response. She would have been 19 prepared. 20 Q. I'm going back to Warden Giannetta's 21 declaration. In Paragraph 21 Warden Giannetta 22 states, "Back in 2019, while I was warden at RCF, I 23 remember going to Samuels & Son Seafood Market with 24 then-Deputy Warden Pierre Lacombe's wife,</p>

<p style="text-align: right;">Page 102</p> <p>1 Rina Lacombe. At the time, Mr. Lacombe was my 2 deputy warden in charge of administration. 3 "Paragraph 22. Rina asked me 4 why Pierre could not be a warden? 5 "23. I told her because he did 6 not have the education credentials. 7 "24. She responded, 8 'Deputy Commissioner Clark was going to look out for 9 Pierre and take care of him by making him a 10 warden.'" 11 Is there anything problematic in 12 those four statements from Warden Giannetta? 13 MR. SEIDMAN: Objection to form, 14 as to the word "problematic." 15 A. Can that be asked in another way? 16 Q. Sure. The warden position as of 2020 17 required a bachelor's degree, right? 18 A. I believe so, yes. 19 Q. Same is true in 2021, right? 20 A. I don't know if it's a bachelor's or a 21 master's. Like I said, I'm not the HR professional. 22 Q. Fair enough. 23 MR. SEIDMAN: We are creeping up 24 on 1:00 o'clock. Do you have a plan for, I</p>	<p style="text-align: right;">Page 104</p> <p>1 charge of operations? 2 A. Hello. 3 Q. Let me reask that, I guess. 4 As deputy commissioner, have you 5 been in charge of operations? 6 A. I will say, earlier in my assignment, the 7 deputy commissioner of administration and the deputy 8 commissioner of operations, I think they were of 9 retirement age, and they utilized some time, and 10 there were periods of time where I was the deputy 11 commissioner covering a lot. 12 Q. When, approximately, was that? 13 A. That was probably early in my appointment. 14 Q. Got you. And I think you said at some 15 point you supervised Ms. Bowers? 16 A. Yes. She was the EAP -- employee assistance 17 program -- director, which at that time was under 18 this office. 19 Q. How long did you supervise her? 20 A. It was not a very long period of time 21 because I believe that she had promoted out of that 22 position and went on to a facility. 23 Q. And as her supervisor, how would you 24 rate her job performance?</p>
<p style="text-align: right;">Page 103</p> <p>1 guess, when we break for lunch? Or do you 2 not have much more? How do you want to 3 handle it? 4 MR. COHEN: How about if we 5 took, like, 20 minutes. Does that work for 6 people? Or 30. 7 MR. SEIDMAN: Deputy 8 Commissioner, is 20 minutes enough time for 9 lunch for you? 10 THE WITNESS: That will be fine, 11 sir, yes. 12 MR. COHEN: What if we said, 13 like, 1:20? 14 MR. SEIDMAN: That's fine. 15 You want to stop now? 16 MR. COHEN: Yes, that works for 17 me. 18 (Luncheon recess taken at 19 12:53 p.m.) 20 (Proceedings resumed at 21 1:26 p.m.) 22 BY MR. COHEN: 23 Q. So, Deputy Commissioner Bagby, have 24 you, in your career as deputy commissioner, been in</p>	<p style="text-align: right;">Page 105</p> <p>1 A. I wasn't, like, her direct supervisor, but 2 like I said, the EAP came under my provision. As 3 the EAP officer, she was great. She was very 4 responsive. Her job was to kind of do the briefings 5 after staff critical incidents. She was great. She 6 was good. 7 Q. Did you ever hear any anything 8 negative about Ms. Bowers? 9 A. No. I do my best to stay out of that. 10 Q. Right. Right before we broke for 11 lunch, I had shown you some paragraphs, and I will 12 open that back up. So specifically Paragraphs 21 13 through 24 of Warden Giannetta's declaration. 14 So Mr. Lacombe did become 15 warden, correct? 16 A. Yes. He's currently warden, yes. 17 Q. He, in order to become warden, he had 18 to get on the promotional list for warden, correct? 19 A. I believe so, yes. 20 Q. And he was announced as warden in 21 December of 2022, right? 22 A. I don't have the exact date. 23 Q. Fair enough. Do you know whether or 24 not, on the list that Warden Lacombe was on, there</p>

1 was a requirement for a bachelor's degree or not?
 2 **A. From my recollection, the specs had been**
 3 **revised.**

4 MR. COHEN: So I will mark this
 5 as Bagby Exhibit 16, with a Bates stamp of
 6 Plaintiffs 1 through 4.

7 (Whereupon Bagby-16 was marked for
 8 identification.)

9 BY MR. COHEN:

10 Q. And I will direct your attention to
 11 page 3. And this is for the warden, correct?

12 **A. Yes. From what is being presented, yes.**

13 Q. And on the fourth page it shows that
 14 this qualification for warden was last revised in
 15 2014, right? Do you see that?

16 **A. Yes.**

17 Q. And then on the third page under the
 18 Educational Requirement, it states that a bachelor's
 19 degree is required, correct?

20 **A. Yes.**

21 Q. And then I will mark this as Bagby-17.
 22 (Whereupon Bagby-17 was marked for
 23 identification.)

24 BY MR. COHEN:

1 Q. And this is also a four-page document.
 2 And this is Bates stamped Plaintiffs 0022 through
 3 25. And then, here at the end here, it states that
 4 these qualifications were last revised in April of
 5 2022, right?

6 **A. Yes.**

7 Q. Per this document.

8 **A. Yes.**

9 Q. And then under Education, there are
 10 two options, right?

11 **A. Yes.**

12 Q. So fair to say that, in order to
 13 qualify for the warden position after this revision,
 14 you did not need a bachelor's degree?

15 **A. Yes, I see that.**

16 Q. Do you think that a warden should have
 17 a bachelor's degree?

18 **A. In my opinion, yes.**

19 Q. Why is that?

20 **A. I believe that that higher level education**
 21 **just makes you a well-rounded individual. There's**
 22 **certain things that you learn in school that you**
 23 **might not learn in the correctional environment. I**
 24 **believe that there was a reason why those before us**

1 **made that requirement.**

2 **At one point, you didn't need**
 3 **that level of education, but then later on you did.**
 4 **I think they did it to make it a more**
 5 **professionalized type of position.**

6 Q. And were you involved at all in the
 7 decision to change the specifications regarding the
 8 educational requirement for warden?

9 **A. I don't recall.**

10 Q. If you had been, would you have
 11 expressed the opinion you just expressed, you know,
 12 two questions ago?

13 **A. I would have stated that that educational**
 14 **requirement is something that's required or**
 15 **necessary.**

16 Q. The bachelor's degree?

17 **A. Yes. I thought it was a master's degree,**
 18 **but it's actually a bachelor's degree.**

19 Q. Right. And in order to be a
 20 program administrator, you actually need a master's,
 21 right?

22 **A. Yes. I believe so, yes.**

23 Q. Is there any benefit for a warden
 24 having a master's degree, as opposed to merely a

1 bachelor's degree?

2 **A. No. I think, in my opinion, a warden having**
 3 **a bachelor's would suffice. Based on that level of**
 4 **education and the experience that they have, I think**
 5 **that would suffice.**

6 Q. Do you happen to know whether the
 7 three individuals initially chosen -- well, the
 8 three people chosen to be promoted to warden were
 9 Deputy Wardens Lacombe, Williams, and Angelucci,
 10 correct?

11 **A. At that time, yes.**

12 Q. And that's back in 2022, right?

13 **A. Yes.**

14 Q. And Warden Williams did not make it
 15 through his probationary period, correct?

16 **A. That is correct, yes.**

17 Q. And Warden Patterson,
 18 Earicka Patterson, took that position, right?

19 **A. Yes.**

20 Q. Do you know whether or not
 21 Norman Williams, Pierre Lacombe, and
 22 Steven Angelucci have a bachelor's degree?

23 **A. I don't directly know their educational**
 24 **levels.**

<p style="text-align: right;">Page 110</p> <p>1 Q. So going back to Warden Giannetta's 2 declaration, if the regulations were changed to not 3 require a bachelor's degree so that a specific 4 person or people would be eligible for the warden 5 position, does that present a problem, in your 6 opinion? 7 A. To me, yes, it would. 8 Q. Why is that? 9 A. I don't think you should alter specs to 10 favor particular individuals. I think it should be 11 whoever meets the qualification and whoever scores 12 high on the test and whoever makes it through the 13 interview rounds. I don't think the specs should be 14 tailored to particular individuals. Unless you just 15 didn't have a pool of candidates. 16 Q. Right. And when Warden Delaney 17 retired in 2020, there was an active list, right? 18 A. From what was presented here today, yes. 19 Q. Given the challenging population in 20 covid, would you believe that a fourth warden would 21 be helpful in running the Detention Center? 22 A. I believe so, yes. 23 Q. And do you remember the retirement of 24 Warden Farrell? Is it Farrell or Farrell?</p>	<p style="text-align: right;">Page 112</p> <p>1 run PICC? 2 A. When Warden Farrell was out? I'm sorry. 3 Q. I'm just saying -- so let me try and 4 do it this way. One moment. I'm showing you what I 5 will mark as Bagby Exhibit 19. 6 (Whereupon Bagby-19 was marked for 7 identification.) 8 BY MR. COHEN: 9 Q. This is the Work History Detail for 10 Norman Williams. And according to this document, do 11 you see that his promotion to warden is dated 12 December 26, 2022? 13 A. Yes. 14 Q. Prior to that date, prior to him 15 receiving that promotion, was he acting as the 16 warden of PICC? 17 A. It's standard progression when the warden is 18 not onsite that there is going to be a deputy warden 19 having oversight in that person's place. It's just 20 a progression, standard procedure. 21 Q. And so are you saying at the time 22 prior to Warden Farrell's retirement? 23 A. If she was out, then, yes, a deputy warden 24 would have had site responsibility.</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Warden Farrell. I don't recall the exact 2 date. 3 MR. COHEN: I will mark this as 4 Bagby Exhibit 18. 5 (Whereupon Bagby-18 was marked for 6 identification.) 7 BY MR. COHEN: 8 Q. I'm showing you the declaration, the 9 signed declaration, of Warden Michele Farrell, Bates 10 stamped Plaintiffs 1011 through 1014. 11 Do you see her signature at the 12 end? 13 A. Yes, sir. 14 Q. So according to Ms. Farrell, she 15 retired May 13th, 2022. Do you see that? 16 A. Yes. 17 Q. And that she had been on sick leave 18 from December of 2021, correct? 19 A. From her statement, I see, yes. 20 Q. And do you have a recollection of 21 then-Deputy Warden Norman Williams running PICC? 22 A. During that time of December, 2021? 23 Q. Let me say this. Yes, that's fair. 24 Prior to Deputy Warden's promotion to warden, did he</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. Right. And then after she retired, 2 did then-Deputy Warden Williams resume that site 3 responsibility? 4 A. I believe so, yes. I believe he stayed over 5 at PICC. 6 Q. Should he have been paid out of class 7 for him doing that position after Warden Farrell had 8 retired? 9 A. Not knowing all the protocols, if it was my 10 decision, I believe so, yes. 11 Q. Do you know if there was a list, a 12 promotional list to warden, canceled in early 2022? 13 A. I don't recall anything official about the 14 list being canceled. 15 MR. SEIDMAN: Could you repeat 16 the question? I just missed -- 17 MR. COHEN: That's fine. 18 MR. SEIDMAN: The court reporter 19 is fine. I just didn't hear it. 20 (Whereupon the court reporter read back 21 as follows: 22 "Question: Do you know if there was a 23 list, a promotional list to warden, canceled in 24 early 2022?</p>

<p style="text-align: right;">Page 114</p> <p>1 "Answer: I don't recall anything official 2 about the list being canceled.") 3 BY MR. COHEN: 4 Q. Is a promotional list requested? 5 A. Requested by whom? I'm sorry. 6 Q. Let me ask it this way: What's the 7 process of a promotional list being created? 8 A. I don't know all the intricate details of 9 the process. I just know that, when there are 10 vacancies, you look at the list and see who is the 11 next candidates on the list. 12 Q. Right. And what about when a list 13 expires? How is another list created? 14 A. I believe that, when a list expires, an 15 announcement has to go out for the position again. 16 Q. And what would be the timeline for 17 when that should happen? 18 A. I don't know the answer to that. 19 Q. Do you agree that, in March of 2022, 20 the PDP had a need for wardens? 21 A. At that time, I believe, March, yes. 22 MR. COHEN: I will mark this as 23 Bagby Exhibit 20. 24 (Whereupon Bagby-20 was marked for</p>	<p style="text-align: right;">Page 116</p> <p>1 A. I believe, race, gender, yes. 2 Q. Prior to the change from Rule of Two 3 to Rule of List -- well, do you know how that change 4 was made? 5 A. No. I just read about it in the local 6 newspaper, that this was something that they were 7 doing. 8 Q. Was that the Inquirer? 9 A. I believe it was the Daily News. 10 Q. Was it a process where it was 11 requested and then it had to go through some kind of 12 process in order for it to pass? 13 A. I'm not aware of that. 14 Q. Fair enough. 15 And going to the page with Bates 16 stamp number Plaintiffs 0019, here it gives a parts 17 and weights. Do you see that? 18 A. Yes, sir. 19 Q. And it states a virtual oral exam is 20 90 percent of the weight, correct? 21 A. From this statement, yes. 22 Q. And that a seniority weighting is 23 10 percent of the weight? 24 A. Yes, I see that.</p>
<p style="text-align: right;">Page 115</p> <p>1 identification.) 2 BY MR. COHEN: 3 Q. This is Bates stamped Plaintiffs 0014 4 through 0021. So I'm showing you a document, it's 5 called an Announcement Details. Do you see this? 6 A. Yes. 7 Q. And it's for the warden position, 8 right? 9 A. Yes. 10 Q. And then under Certification Rule, it 11 states, "Rule of List," right? 12 A. Yes. 13 Q. And do you know how the Rule of List 14 works? 15 A. Not in detail. From my understanding, I 16 think it's called, like, the variance rule. It kind 17 of allows you to go deeper than one and two to kind 18 of -- in the spirit of things to, you know, create 19 some diversity at the positions. 20 Q. When you say "diversity," what do you 21 mean? 22 A. To get different candidates, you know. To 23 have some diversity. 24 Q. Diversity across race?</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. And is there, in your opinion, a 2 benefit to an examination for a warden position? 3 A. Could you -- 4 Q. Sure. Yes that's fair. Because it's 5 clearly in comparison to something else. 6 So in my understanding -- and 7 correct me if I'm wrong -- there are two methods for 8 developing rankings on a Civil Service promotional 9 list; is that correct? 10 A. Yes. Training and, I think, education and 11 then exam, yes. 12 Q. So in comparing those two methods of 13 creating a list for the warden position 14 specifically, is there a benefit to having an exam, 15 as opposed to a training and education? 16 MR. SEIDMAN: Objection to form. 17 A. Is there another way to rephrase the 18 question? 19 Q. Sure. So you can either have -- I 20 think it's colloquially called a T&E; is that right? 21 A. Yes, training and education. 22 Q. Right. So you can either have a T&E 23 or you can have an examination, right? 24 A. Yes.</p>

<p style="text-align: right;">Page 118</p> <p>1 Q. As it pertains to the warden position, 2 which method do you think is better? 3 A. In my opinion, I've always been more leaning 4 towards examinations. 5 Q. And why is that? 6 A. I think the examinations, you get to kind of 7 ask certain questions that may, you know, kind of 8 get the skill set of the candidate; where a T&E is 9 pretty much like, you know, you just going by the 10 resume, you know. 11 And sometimes, if you have 12 people that are kind of, like, in the same rank, 13 they usually kind of have the same experience of 14 things. 15 Q. There is also an interview for the 16 warden position, right? 17 A. Yes. 18 Q. Separate from whether an examination 19 or a T&E is used, right? 20 A. Yes. 21 Q. And in that interview, candidates can 22 be asked questions? 23 A. Yes. 24 Q. Pertaining to their knowledge and</p>	<p style="text-align: right;">Page 120</p> <p>1 than one or two. 2 Q. But is the ranking a factor in 3 determining who is going to get the job? 4 A. I believe so. 5 Q. And you were actually involved in the 6 decision-making process hiring the wardens from this 7 announcement, correct? 8 A. Yes. 9 Q. When I say, "this announcement," I'm 10 referring to the document Bates stamped 11 Plaintiffs 0014 through 21. 12 A. Yes. 13 Q. And in that process, did you know what 14 the rankings were of the candidates? 15 A. I believe so, yes. 16 Q. And did it factor into the 17 decision-making of who was hired? 18 A. From my understanding, it factored into how 19 individuals were called for the interviews. 20 Q. One moment. 21 THE WITNESS: May I turn the air 22 conditioner on in this office? It's getting 23 pretty warm. 24 MR. COHEN: Please.</p>
<p style="text-align: right;">Page 119</p> <p>1 ability as a warden? 2 A. Or how they would be as a warden, I guess. 3 Q. Right. Yes. That's a better way to 4 say it, right? 5 A. Yes. 6 Q. So given that there is that 7 opportunity for candidates to be questioned about 8 their knowledge of information relevant to being a 9 warden, why would an examination still be helpful? 10 A. From my assessment, not being an HR 11 professional, because the examination is what gets 12 you on that list to be interviewed. It's a 13 progression. 14 Q. Right. And it creates the ranking, 15 right? 16 A. Yes. When I say, "the list," that's what I 17 refer to, like the ranking. 18 Q. In Rule of Two, obviously, the ranking 19 is critical, as we've talked about. 20 Does the ranking matter in 21 Rule of List? 22 A. Not being an HR professional, from my 23 understanding, that variance rule kind of gives you 24 a little bit more ability to reach a little deeper</p>	<p style="text-align: right;">Page 121</p> <p>1 THE WITNESS: Thank you. 2 (Brief pause.) 3 MR. SEIDMAN: You can take off 4 your coat, too, Deputy Commissioner. 5 THE WITNESS: I always keep it 6 on. Thank you. 7 MR. SEIDMAN: You're welcome. 8 BY MR. COHEN: 9 Q. I'm looking for the rankings. 10 Do you know whether, ultimately, 11 an examination or the T&E was used in regards to the 12 warden list opened July 11th, 2022? 13 A. I don't recall. I believe it was a T&E. 14 Q. Were you aware of how the T&E operated 15 in this case? In other words, how the rankings were 16 done? 17 A. From the specs, I believe it looks like they 18 gave preference points for different things. 19 Q. Are those specs available to you as a 20 deputy commissioner to look at? 21 A. Specs are, yes. They are on the City 22 website for anyone to look at. 23 Q. How are those specs created? 24 A. I believe within the departments, along with</p>

<p style="text-align: right;">Page 122</p> <p>1 our HR, central HR, HR divisions.</p> <p>2 Q. So did you contribute at all to the</p> <p>3 specs used to rank the warden candidates in 2022?</p> <p>4 A. I don't recall. I don't think so, no.</p> <p>5 Q. Who would do that in the department?</p> <p>6 A. I have no direct knowledge, but, you know,</p> <p>7 there is an HR, and then there is the department.</p> <p>8 Q. When you say --</p> <p>9 A. I was not involved in the process, so I</p> <p>10 don't know.</p> <p>11 Q. Got you.</p> <p>12 MR. COHEN: Can we go off the</p> <p>13 record for a second?</p> <p>14 (Discussion off the record)</p> <p>15 MR. COHEN: I will mark this</p> <p>16 Bagby Exhibit 21.</p> <p>17 (Whereupon Bagby-21 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. COHEN:</p> <p>20 Q. This is a three-page document,</p> <p>21 starting at Bates City 1834 through 1836. And on</p> <p>22 the front page it's an e-mail from Daria Song to</p> <p>23 Deputy Commissioner Beaufort, Attorney Vrato, and</p> <p>24 Sherell Maxwell, stating, "Notice of Established</p>	<p style="text-align: right;">Page 124</p> <p>1 one-to-one correlation in terms of who gets the</p> <p>2 promotion, because, for instance, the Deputy Warden</p> <p>3 Vetter did not get the promotion, and he was ranked</p> <p>4 2 on the list, right?</p> <p>5 A. Yes, that's correct.</p> <p>6 Q. My question is whether you know</p> <p>7 whether these applicants' ranking was a factor in</p> <p>8 whether they got the promotion?</p> <p>9 A. I'm not too sure on what the question is. I</p> <p>10 am so sorry.</p> <p>11 Q. No problem. Were you part of the</p> <p>12 decision-making process on who was promoted to</p> <p>13 warden in 2022?</p> <p>14 A. Yes. I was at this panel, yes.</p> <p>15 Q. Can you tell me how the decision was</p> <p>16 made to choose the three people who were chosen at</p> <p>17 that time?</p> <p>18 A. Everyone gets that interview sheet, and then</p> <p>19 you go by whether you find them acceptable,</p> <p>20 questionable, or unacceptable. And then, you know,</p> <p>21 everyone's input is added, and then you just go</p> <p>22 about filling those positions.</p> <p>23 Q. Who makes the decision of who fills</p> <p>24 the positions?</p>
<p style="text-align: right;">Page 123</p> <p>1 Eligible List for the Warden and Deputy Warden</p> <p>2 Position."</p> <p>3 And then I will go to the</p> <p>4 third page. And I'll kind of rotate this.</p> <p>5 Deputy Commissioner Bagby, do</p> <p>6 you see this ranking of the wardens or potential</p> <p>7 wardens in 2022?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And would you agree with me that,</p> <p>10 ultimately, the individuals ranked 1, 3, and 4 were</p> <p>11 those chosen for the open warden positions?</p> <p>12 A. Yes. At that time, yes.</p> <p>13 Q. And then, when Norman Williams did not</p> <p>14 make it through the probationary period, the</p> <p>15 individual Ms. Patterson, ranked number 5, was</p> <p>16 promoted to warden, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Do you believe there is a connection</p> <p>19 between these individuals' rankings and whether or</p> <p>20 not they got the promotion?</p> <p>21 A. Can you, like, maybe rephrase the question?</p> <p>22 I'm sorry.</p> <p>23 Q. No. That's fine.</p> <p>24 So, clearly, it's not a</p>	<p style="text-align: right;">Page 125</p> <p>1 A. We make a recommendation to the</p> <p>2 Commissioner.</p> <p>3 Q. And "we" is who?</p> <p>4 A. The deputy commissioners and the chief of</p> <p>5 staff.</p> <p>6 Q. And what was your involvement in that</p> <p>7 recommendation?</p> <p>8 A. Just giving my input on the candidates, on</p> <p>9 whether I found them acceptable, unacceptable, or</p> <p>10 questionable.</p> <p>11 Q. Did you find more than three</p> <p>12 candidates acceptable?</p> <p>13 A. Yes.</p> <p>14 Q. So then, besides that determination of</p> <p>15 whether they were acceptable, what involvement, if</p> <p>16 any, did you have?</p> <p>17 MR. SEIDMAN: Objection to form.</p> <p>18 BY MR. COHEN:</p> <p>19 Q. Do you understand the question, or do</p> <p>20 you want me to rephrase?</p> <p>21 A. I think maybe another way to ask the</p> <p>22 question would probably help me --</p> <p>23 Q. Sure.</p> <p>24 A. -- understand it better.</p>

<p style="text-align: right;">Page 126</p> <p>1 Q. Yes. How many warden positions were</p> <p>2 you trying to fill in December, 2022?</p> <p>3 A. Three, for the three, at that time, major</p> <p>4 facilities.</p> <p>5 Q. Right. And given that you found more</p> <p>6 than three candidates acceptable for the position,</p> <p>7 how did you help narrow that list down to three?</p> <p>8 A. From my recollection, it kind of went,</p> <p>9 number 1, if everyone found him acceptable. I think</p> <p>10 number 2, there was a large part who didn't find him</p> <p>11 acceptable. And then number 3, it looks like most</p> <p>12 people found him acceptable. And then the next one,</p> <p>13 most people found him acceptable. And that was ones</p> <p>14 that filled those spots.</p> <p>15 Q. So if I'm understanding you correctly,</p> <p>16 the first step was to determine whether a candidate</p> <p>17 was acceptable or not acceptable by the group; is</p> <p>18 that right?</p> <p>19 A. I believe so, yes.</p> <p>20 Q. Do you remember which candidates, if</p> <p>21 any, from this list of eight were excluded at that</p> <p>22 point?</p> <p>23 A. I believe, at that time, Major Vetter was</p> <p>24 excluded.</p>	<p style="text-align: right;">Page 128</p> <p>1 seven get narrowed down to three?</p> <p>2 A. We interview all of the candidates. We</p> <p>3 started in that order: Williams, Vetter, Angelucci.</p> <p>4 I do recall that a majority had</p> <p>5 felt Vetter not acceptable, and we were going down</p> <p>6 that list to fill positions. And that's how you</p> <p>7 came up with Williams, Angelucci, Lacombe, and then</p> <p>8 next in line was Patterson.</p> <p>9 Q. So it was in the order that they were</p> <p>10 interviewed?</p> <p>11 A. Well, it looks like it was based on the</p> <p>12 ranking. It looks like, from my recollection.</p> <p>13 There was one, I think -- one,</p> <p>14 two, three. Number 4 was on vacation. I think</p> <p>15 Lacombe was on vacation. Then he came back later.</p> <p>16 That was the only thing that was, like, not in</p> <p>17 sequence.</p> <p>18 Q. Got you. So then, when you were</p> <p>19 giving the job or determining who was going to get</p> <p>20 the job, you went by the ranking, and if the person</p> <p>21 was acceptable, then they got the job; is that</p> <p>22 right?</p> <p>23 A. Based on filling those slots, from my</p> <p>24 understanding, yes.</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. Anyone else?</p> <p>2 A. Not that I'm aware of at that time, no.</p> <p>3 Q. Then the next step in the process</p> <p>4 would be to go down the list from the top ranking</p> <p>5 and give those people the job; is that right?</p> <p>6 A. From what I recall --</p> <p>7 MR. SEIDMAN: That's not what he</p> <p>8 said. Objection to form.</p> <p>9 MR. COHEN: David, please.</p> <p>10 MR. SEIDMAN: That's not what he</p> <p>11 said.</p> <p>12 MR. COHEN: Well, I'm asking.</p> <p>13 I'm trying to find out.</p> <p>14 BY MR. COHEN:</p> <p>15 Q. Deputy Commissioner Bagby, so after</p> <p>16 the determination was made that Deputy Warden Vetter</p> <p>17 should be excluded in the potential candidates --</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. (Continuing) -- at this point now, you</p> <p>21 have seven candidates -- right? -- for the three</p> <p>22 positions?</p> <p>23 A. Yes.</p> <p>24 Q. So my question is how, then, did those</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Well, you were there, right?</p> <p>2 A. Right. But I just know what I voted. I</p> <p>3 don't know, like, what everyone else voted.</p> <p>4 Q. Right. But were you part of the</p> <p>5 process of winnowing from seven to three?</p> <p>6 A. Yes.</p> <p>7 Q. So that's what I'm asking about.</p> <p>8 Was that a conversation that was</p> <p>9 had?</p> <p>10 A. From my recollection, yes. It was a brief</p> <p>11 discussion afterwards, yes.</p> <p>12 Q. And in that conversation, if I'm</p> <p>13 understanding you correctly -- and please correct me</p> <p>14 if not -- you then went down the list in order of</p> <p>15 ranking and gave the job to the individual if they</p> <p>16 were deemed acceptable?</p> <p>17 A. Yes.</p> <p>18 Q. And that was the recommendation</p> <p>19 provided to Commissioner Carney?</p> <p>20 A. Yes. Our recommendations, yes.</p> <p>21 Q. And that recommendation, as I</p> <p>22 understand it, was that then-Deputy Wardens</p> <p>23 Williams, Angelucci, and Lacombe be given the</p> <p>24 promotion to warden?</p>

<p style="text-align: right;">Page 130</p> <p>1 A. Yes. Because there were three slots, and 2 those were the three that got those slots. 3 Q. And they all stayed in the same 4 position they had been doing, right? 5 MR. SEIDMAN: Objection to form. 6 BY MR. COHEN: 7 Q. I can rephrase it. 8 Prior to Norman Williams getting 9 to the promotion to warden of PICC, he was acting as 10 the warden of PICC, correct? 11 A. Yes, sir. 12 Q. And prior to Steven Angelucci getting 13 the promotion to warden of CFCF, he was acting as 14 the warden of CFCF? 15 A. Yes, sir. 16 Q. And prior to Pierre Lacombe becoming 17 the warden of RCF, ASD, and the Detention Center, he 18 was acting as the warden of Riverside Correctional 19 Facility, ASD, and the Detention Center? 20 A. Yes, sir. 21 Q. Does that seem coincidental to you? 22 MR. SEIDMAN: Objection to form. 23 I don't know how you answer that. 24 Coincidental to what?</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. COHEN: Yes. I'm trying to 2 clarify. Yes, that was a question. 3 MR. SEIDMAN: I didn't hear the 4 question at the end. You just made a 5 statement and left off. 6 MR. COHEN: I thought I put my 7 voice a little higher to implicate question. 8 MR. SEIDMAN: I don't think 9 that's going to show up on the record. 10 BY MR. COHEN: 11 Q. So Ms. Lyde was ranked last on the 12 list, right? 13 A. From this, yes. From the list, yes. 14 Q. Was she an acceptable candidate? 15 A. I felt -- 16 MR. SEIDMAN: Objection to form. 17 You can answer. That's okay. 18 A. I felt her acceptable. 19 Q. Did anyone, in your recollection, not 20 find her acceptable? I can show you the document. 21 That's fine. 22 MR. COHEN: Mark this as Bagby 23 Exhibit 22. 24 (Whereupon Bagby-22 was marked for</p>
<p style="text-align: right;">Page 131</p> <p>1 BY MR. COHEN: 2 Q. Well, I guess, let me ask it this way. 3 I mean, was there any discussion in that room when 4 you were deciding on the recommendation regarding 5 the fact that those three individuals were already 6 acting as wardens? 7 A. From what I recall, it was just a decision 8 that was made that they would stay in their 9 assignments. My -- yes. 10 Q. Right. That they would stay. Right. 11 So, in other words, it was 12 acknowledged in that room that they were already in 13 the warden positions? 14 A. I don't know if it was actually stated at 15 the time of interview, but I know a decision was 16 made that, since they are already in those 17 facilities, that they would remain in those 18 facilities. 19 Q. Right. In other words, once they were 20 made warden, you might as well keep them in the 21 facilities they are already acting as warden in. 22 A. There was a decision that was -- 23 MR. SEIDMAN: Is that a 24 question?</p>	<p style="text-align: right;">Page 133</p> <p>1 identification.) 2 BY MR. COHEN: 3 Q. Showing you the cover page for 4 Ms. Lyde as of December 2nd, 2022, it's 5 Bates stamped City 1843 through City 1848. 6 MR. SEIDMAN: That's 49. Is it 7 48 or 49? 8 MR. COHEN: Yes, 49 goes on to 9 the next one. 10 MR. SEIDMAN: Yes, 48. 11 BY MR. COHEN: 12 Q. And showing you your interview record 13 of Ms. Lyde, you note here that she has a master's 14 in social work, right? 15 A. Yes. 16 Q. And do you think that that is helpful 17 to her application for the warden position? 18 A. I believe so, yes. 19 Q. And you state here that she has no 20 disciplinary history. And I can go through them. 21 But do you remember whether or not any of the other 22 candidates did have a disciplinary history? 23 A. I think two candidates did, yes. 24 Q. Do you remember who that was?</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes.</p> <p>2 Q. Who was that?</p> <p>3 A. I believe Norman Williams and William</p> <p>4 Vetter. I believe they had recent discipline.</p> <p>5 That's what we go by: Recent disciplinary history.</p> <p>6 Q. And would that be a reason why</p> <p>7 Ms. Lyde would potentially get the position over</p> <p>8 Mr. Williams, who ultimately did?</p> <p>9 A. Having a clean disciplinary history is a</p> <p>10 positive factor.</p> <p>11 Q. Once it was determined that William</p> <p>12 Vetter was unacceptable, should the seven remaining</p> <p>13 candidates have been judged against each other?</p> <p>14 A. I mean, that's an HR question on how that</p> <p>15 variance rule is supposed to work.</p> <p>16 Q. Oh. So are you saying it was your</p> <p>17 understanding that the non-commissioner</p> <p>18 decision-makers, let's say, the other four</p> <p>19 individuals, were supposed to go down the list by</p> <p>20 ranking in the way they did?</p> <p>21 A. From my understanding -- and I'm not the HR</p> <p>22 professional. But from my understanding of the</p> <p>23 variance rule, it's supposed to give you a little</p> <p>24 bit more latitude to go outside of one and two to</p>	<p style="text-align: right;">Page 136</p> <p>1 could have chosen either tactic or style; is that</p> <p>2 fair?</p> <p>3 MR. SEIDMAN: Objection to form.</p> <p>4 I don't know if it's been</p> <p>5 established that there is two different</p> <p>6 forms. We didn't talk about --</p> <p>7 MR. COHEN: What do you mean</p> <p>8 "two different forms"?</p> <p>9 MR. SEIDMAN: Well, you are</p> <p>10 saying there's two different forms of</p> <p>11 reviewing this, and I don't think that that's</p> <p>12 been established.</p> <p>13 BY MR. COHEN:</p> <p>14 Q. I'm saying there are, I guess, at</p> <p>15 least -- I'm positing there are at least two</p> <p>16 different methods from which you could pick three</p> <p>17 out of seven, right?</p> <p>18 A. No, I don't think so. I was saying what my</p> <p>19 understanding of how I interpreted the variance rule</p> <p>20 was that, you know, it gives you more latitude to</p> <p>21 dig deeper into the candidates. But that's just my</p> <p>22 understanding.</p> <p>23 Q. In your understanding of the</p> <p>24 Rule of List, could you have judged Norman Williams</p>
<p style="text-align: right;">Page 135</p> <p>1 fill positions.</p> <p>2 Q. Right. But I guess my question is,</p> <p>3 did someone make the decision to judge the</p> <p>4 candidates in the manner in which you did, or was</p> <p>5 it, kind of, policy?</p> <p>6 MR. SEIDMAN: Objection to form.</p> <p>7 BY MR. COHEN:</p> <p>8 Q. Do you understand the question?</p> <p>9 A. Is there another way the question can be</p> <p>10 asked?</p> <p>11 Q. Sure. So as I understand it, there</p> <p>12 would be two different ways you could have winnowed</p> <p>13 from seven to three, right?</p> <p>14 And I will say the two ways are</p> <p>15 you could have either done it the way you did it, by</p> <p>16 viewing each candidate by rank and determining</p> <p>17 whether or not they are acceptable for the position,</p> <p>18 or you could, once you had the seven acceptable</p> <p>19 candidates, have judged them against each other and</p> <p>20 picked the best candidate, right?</p> <p>21 A. That would have been my understanding.</p> <p>22 Q. That you could have done either.</p> <p>23 What I'm saying is,</p> <p>24 hypothetically, you could have chosen -- someone</p>	<p style="text-align: right;">Page 137</p> <p>1 against Robert Rose to see who would be a better</p> <p>2 warden?</p> <p>3 A. That would just be as a state of my</p> <p>4 interpretation of how that variance rule was to be</p> <p>5 implemented.</p> <p>6 Q. But as a group, collectively, you did</p> <p>7 not do that, right?</p> <p>8 A. No. From my recollection, like I said, we</p> <p>9 interviewed all the candidates, and we started from</p> <p>10 the top and started filling positions.</p> <p>11 Q. Okay. And is it your understanding</p> <p>12 that's how you were mandated to do it?</p> <p>13 A. I don't quite understand the question. I'm</p> <p>14 sorry.</p> <p>15 Q. No problem. Is it your understanding</p> <p>16 that you were required to do it that way?</p> <p>17 A. That's how the process went, yes.</p> <p>18 Q. And who dictated the process?</p> <p>19 MR. SEIDMAN: Objection to form.</p> <p>20 A. Is there another way to ask the question?</p> <p>21 I'm sorry.</p> <p>22 Q. Sure. You said that's how the process</p> <p>23 went, right? You went down in order of rank --</p> <p>24 right? -- to determine if they would fill the job?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. Right.</p> <p>2 Q. My question is did someone -- and</p> <p>3 that's fair. I can start there. Did someone</p> <p>4 dictate that process?</p> <p>5 A. I believe our chief of staff was the one</p> <p>6 that was in the interview giving us advisement on</p> <p>7 how that variance rule works.</p> <p>8 Usually, there is an HR</p> <p>9 professional in the interviews, but I don't recall</p> <p>10 if HR was at that table. There's always going to be</p> <p>11 an HR person to kind of let us know how the process</p> <p>12 works.</p> <p>13 I don't think HR was at the</p> <p>14 warden interviews, but I do believe the chief of</p> <p>15 staff gave us advisement on the variance rule.</p> <p>16 Q. And that would be Gregory Vrato?</p> <p>17 A. Yes. Our chief of staff, yes.</p> <p>18 Q. So going to Gregory Vrato's interview</p> <p>19 record regarding Ms. Lyde -- and this is Bates</p> <p>20 stamped City 1848 -- do you see at the top where he</p> <p>21 says, "Ms. Lyde has a degree but I believe wardens</p> <p>22 should have security supervisory experience."</p> <p>23 A. Yes, I see that.</p> <p>24 Q. Is that opinion biased towards program</p>	<p style="text-align: right;">Page 140</p> <p>1 A. The assessment that -- well, he says that's</p> <p>2 his belief. I don't believe that.</p> <p>3 Q. You don't agree with Mr. Vrato's</p> <p>4 belief?</p> <p>5 A. No, I don't agree that the HSPAs should have</p> <p>6 security supervision. That would exclude them from</p> <p>7 the process.</p> <p>8 Q. And thereby negatively affect women,</p> <p>9 correct?</p> <p>10 MR. SEIDMAN: Objection to form.</p> <p>11 A. Is there another way that you can ask that</p> <p>12 question, sir?</p> <p>13 Q. Do you think that excluding eligible</p> <p>14 HSPAs from the warden promotional list is unfair</p> <p>15 towards women?</p> <p>16 MR. SEIDMAN: Objection to form.</p> <p>17 A. Is there another way to ask that question</p> <p>18 without, I guess, focusing on the gender?</p> <p>19 Q. Sure. Is excluding HSPAs from the</p> <p>20 warden promotional list biased against social</p> <p>21 service supervisors?</p> <p>22 MR. SEIDMAN: Objection to form.</p> <p>23 A. Is there another way to ask that question,</p> <p>24 sir?</p>
<p style="text-align: right;">Page 139</p> <p>1 administrators?</p> <p>2 A. That's his opinion. And if that was the</p> <p>3 case, then they wouldn't be eligible to take the</p> <p>4 test.</p> <p>5 Q. Right. So I guess I will reiterate my</p> <p>6 question. Is Mr. Vrato's opinion biased against</p> <p>7 program administrators?</p> <p>8 MR. SEIDMAN: Objection to form.</p> <p>9 A. Is there another way to state that</p> <p>10 question --</p> <p>11 Q. Sure.</p> <p>12 A. -- in what I'm trying to gauge whether he's</p> <p>13 biased or not?</p> <p>14 Q. Is Mr. Vrato's statement here unfair</p> <p>15 towards program administrators applying for the</p> <p>16 position of warden?</p> <p>17 MR. SEIDMAN: Objection to form.</p> <p>18 You can answer the question if you understand</p> <p>19 it.</p> <p>20 A. I think it would exclude them. I don't</p> <p>21 agree with that assessment.</p> <p>22 Q. When you say "that assessment," are</p> <p>23 you referring to my assessment or Mr. Vrato's</p> <p>24 assessment?</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. That's all right. We can move on.</p> <p>2 That's fine.</p> <p>3 Mr. Vrato also states down here,</p> <p>4 on General Comments, that "Wardens need security</p> <p>5 supervisory experience." Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Is that a true statement?</p> <p>8 A. I would say that's his truth. I don't</p> <p>9 necessarily agree with that.</p> <p>10 Q. Well, if that were true, wouldn't that</p> <p>11 preclude program administrators from the position?</p> <p>12 A. Yes.</p> <p>13 Q. So given that program administrators</p> <p>14 are one of the two jobs eligible for the position,</p> <p>15 shouldn't his belief preclude him from making the</p> <p>16 decision of who becomes a warden?</p> <p>17 MR. SEIDMAN: Objection to form.</p> <p>18 A. Is there a different way to repeat that</p> <p>19 question, sir?</p> <p>20 Q. Sure. Given that Mr. Vrato states,</p> <p>21 "Wardens need security supervisory experience," and</p> <p>22 given that program administrators do not have --</p> <p>23 well, do you agree program administrators do not</p> <p>24 have security supervisory experience?</p>

<p style="text-align: right;">Page 142</p> <p>1 A. For the most part, yes. And in my history, 2 I believe so, yes. 3 Q. And every deputy warden would have 4 security supervisory experience, right? 5 A. Yes. In our structure, yes. 6 Q. So given that Mr. Vrato is excluding 7 program administrators from being able to do the 8 job, should he have been part of the decision-making 9 process of who got the job? 10 MR. SEIDMAN: Objection to form. 11 You can answer if you understand. 12 A. That wouldn't be my decision, sir. 13 Q. I appreciate it wasn't your decision. 14 But I'm asking you the question, nonetheless. 15 A. The only thing I would say is that I just 16 don't agree with the statement that wardens have to 17 have security supervision experience. I don't agree 18 with that statement. 19 Q. And would you agree that that 20 statement goes against the Civil Service regulations 21 regarding the qualifications for the warden 22 position? 23 MR. SEIDMAN: Objection to form. 24 A. Is there another way to ask that question,</p>	<p style="text-align: right;">Page 144</p> <p>1 Exhibit 23, and this starts at City 1849 2 through City 1854. 3 (Whereupon Bagby-23 was marked for 4 identification.) 5 BY MR. COHEN: 6 Q. Do you see that? And then, regarding 7 Mr. Vrato's interview record for Ms. Albandoz, he 8 considered her questionable, correct? 9 A. From what I see, yes, sir. 10 Q. And then in General Comments he says, 11 "Ms. Albandoz is very good at her position, but I 12 believe a warden needs to come through supervisory 13 security ranks," right? 14 A. That's the statement, yes, sir. 15 Q. And in your opinion, that is 16 incorrect, correct? 17 A. In my opinion, I don't agree with that 18 statement, yes, sir. 19 Q. And was that opinion ever brought up 20 in regards to the entire process of promoting 21 wardens to you or around you? 22 A. Not to me, no, sir. 23 Q. And if it had been brought up -- and 24 when I say "it," I mean the opinion that a warden</p>
<p style="text-align: right;">Page 143</p> <p>1 sir? 2 Q. Do you have an idea? 3 A. I'm sorry. Is that being asked of me? I'm 4 sorry. 5 Q. You don't have to answer that. Okay. 6 A. Oh, okay. 7 Q. Sorry. My apologies. 8 And then going to Ms. Albandoz's 9 interview record, you also considered her 10 acceptable, correct? 11 A. Yes, sir. 12 Q. And she actually did have experience 13 as a correction officer, right? 14 A. Yes, sir. 15 Q. And that's Bates stamped City 1851. 16 MR. SEIDMAN: I think it's 1852. 17 MR. COHEN: His is 1851. 18 MR. SEIDMAN: The one that was 19 just on was 1852. I don't know. It just 20 flipped. 21 MR. COHEN: Yes, I flipped it. 22 MR. SEIDMAN: Okay. 23 MR. COHEN: And I will mark her 24 interview record, with cover sheet, as Bagby</p>	<p style="text-align: right;">Page 145</p> <p>1 needs to come through supervisory security ranks -- 2 if that opinion had been brought up to you, would 3 you have stated to whomever, whether it be the 4 Commissioner or Mr. Vrato, that you do not agree 5 with that? 6 A. I would have stated I don't agree with that. 7 That should have been in the specs to prevent people 8 from taking the test. 9 Q. Have you ever discussed with either 10 Deputy Commissioner Clark, Deputy Commissioner 11 Beaufort, or Commissioner Carney whether or not a 12 warden needs to come through supervisory security 13 ranks? 14 A. I don't recall having that discussion. 15 MR. COHEN: Can we take till 16 2:47? 17 MR. SEIDMAN: Sure. 18 (Short recess taken at 19 2:42 p.m.) 20 (Proceedings resumed at 21 2:48 p.m.) 22 BY MR. COHEN: 23 Q. So fair to say that, before you, 24 Mr. Vrato, Deputy Commissioner Beaufort, and</p>

<p style="text-align: right;">Page 146</p> <p>1 Deputy Commissioner Clark got to the decision of 2 whether or not Ms. Albandoz or Ms. Lyde should be 3 promoted, the decision to hire Norman Williams, 4 Steven Angelucci, and Pierre Lacombe had already 5 been made? 6 A. From my recollection, we didn't even discuss 7 those two candidates because the slots were already 8 filled. 9 Q. Was there an occasion where you were 10 speaking with Ms. Lyde and Ms. Albandoz and you 11 expressed that you were sorry that they would not be 12 able to progress to your level in this 13 administration? 14 A. I don't recollect if I had that type of 15 direct conversation with them. I mean, I would 16 express that, you know, I would like to see them 17 eventually take my place, but I don't think I used 18 terminology like "I'm sorry." That just doesn't 19 sound like my language. 20 Q. Earlier you said that, when the warden 21 positions became available, administration should 22 have gone to the promotional list and interviewed 23 from that list, correct? 24 A. If there was an active list, that would be,</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Not that I'm aware of. 2 MR. COHEN: That's all the 3 questions I have. 4 THE WITNESS: Thank you, sir. 5 MR. COHEN: Thank you. 6 MR. SEIDMAN: Thank you. 7 (Deposition concluded at 8 2:52 p.m.) 9 ----- 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 147</p> <p>1 you know, what I would believe should have been 2 done, yes. 3 Q. And there was an active list in July, 4 2020, right? 5 A. From what was presented today, yes. 6 Q. And in August of 2021, right? 7 A. From what was presented today, yes. 8 Q. And September of 2021? 9 A. From what was presented today to me, yes. 10 Q. Does the Covid-19 crisis and the PDP's 11 focus on that crisis change your answer regarding 12 that statement? 13 A. No. I mean, I would hate to have -- 14 MR. SEIDMAN: Go ahead. 15 A. I would hate to have lost them during that 16 time, but I would never get in the way of someone, 17 you know, taking the promotion or an opportunity to 18 be promoted, because it gives an opportunity for 19 someone to fill their vacancy. So, I mean, I would 20 hate to have lost them during the pandemic, but I 21 wouldn't have objected to a promotion for any party. 22 Q. And there was nothing stopping the PDP 23 from making those promotions to warden while covid 24 was going on?</p>	<p style="text-align: right;">Page 149</p> <p>1 CERTIFICATE 2 I, LOUIS A. MANCHELLO, a Certified Court 3 Reporter (N.J. License No. 30XI00141800) and Notary 4 Public of Pennsylvania, do hereby certify that the 5 deposition of TERRELL BAGBY was duly taken on August 6 31, 2023 and at the time noted above before me. The 7 said TERRELL BAGBY was first duly sworn (or 8 affirmed) by me according to law to tell the truth, 9 the whole truth and nothing but the truth and 10 thereupon did testify as set forth in the above 11 transcript of testimony. The testimony was taken 12 down by me stenographically. 13 I do further certify that the above 14 deposition is a full, complete, and true record of 15 all the testimony given by the said witness, to the 16 best of my knowledge and ability. 17 Electronically signed by Louis A. 18 Manchello, Certified Court Reporter (N.J. License 19 Number 30XI00141800) on September 15, 2023. 20 (This transcript may contain quoted 21 material. Such material is reproduced as read or 22 quoted by the speaker and may not be a verbatim 23 replication of the printed material.) 24 (This certification does not apply to any reproduction of this transcript, unless under the direct supervision of the certifying reporter.)</p>

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CERTIFICATE

I, the undersigned, TERRELL BAGBY, do
hereby certify that I have read the deposition taken
of me on August 31, 2023 and that to the best of my
knowledge said deposition is true and accurate (with
the exception of the following corrections listed
below):

Page	Line	Changes
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DATE: _____

TERRELL BAGBY

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